



BILLET D'ÉTAT

III
2005

WEDNESDAY, 30th MARCH, 2005

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BILLET D'ÉTAT

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 30th MARCH, 2005,** at 9.30am, to consider the items contained in this Billet d'État which have been submitted for debate by the Policy Council.

DE V. G. CAREY
Bailiff and Presiding Officer

The Royal Court House
Guernsey
11th March 2005

POLICY COUNCIL

RESPONSIBILITY FOR EMERGENCY POWERS

Executive Summary

The current legislation dealing with emergency powers is the Emergency Powers (Bailiwick of Guernsey) Law 1965, as amended (the 1965 Law) under which the Emergency Council was able to exercise extensive regulatory powers in case of emergency. Responsibility for exercising the powers of the Emergency Council was transferred to the Policy Council as part of the restructuring of the States. A review of the measures that need to be taken to monitor and react to threats from terrorism has concluded that it is inappropriate for the Policy Council as a whole to exercise this responsibility. This report recommends that the responsibility be transferred to a new Emergencies Powers Authority and that, as an interim measure, the 1965 Law be amended to better reflect current day circumstances prior to its replacement by a new Civil Contingencies Law.

Report

1. In July 1964 (Billet d'État XI of 1964) the States considered and approved a report from the Civil Defence Committee which proposed that in the circumstances of emergencies resulting from hostile attack by a foreign power or giving rise to deprivation of, or interruption in, the "essentials of life" there was a need for general regulation and administrative powers to be exercised by one central body to preserve and maintain essential services, public health and law and order.
2. The States agreed to the formation of the Emergency Council which, as originally constituted, comprised of the Bailiff as President, HM Procureur and the Presidents of 6 named Committees of the States. Originally the Emergency Council was able to co-opt representatives of Alderney and Sark but this was revised in 1987 as part of a general review of the constitution of States Committees so that representatives of Alderney and Sark could be "invited to attend meetings as and when required". Other minor variations to the constitution of the Council were made from time to time. Both the mandate of the Emergency Council and the wording of the subsequent 1965 Law reflected the thrust of the 1964 policy letter.
3. The 1965 Law enabled the Emergency Council, by Order, to declare a state of emergency in a situation where the community may be deprived of "the essentials of life". The Order must be laid before the States as soon as possible after it has been made. Regulations made under such an order could empower the Emergency Council to confer or impose on any person any powers and duties necessary for the preservation of peace and securing necessities. A 1988 amendment to the 1965 Law gives the Emergency Council similar powers to

declare a food hazard emergency to combat situations such as the threat to public health arising from the Chernobyl incident.

4. The Emergency Council has tended to be convened to meet only when there is an actual or developing situation that may require the adoption of emergency powers which, fortunately, has been very infrequent. Recent examples include discussion of aviation insurance issues following the September 2001 terrorist incident and potential fuel supply problems arising from the 1991 Gulf War.
5. Under the implementation of the outcome of the Review of the machinery of Government in Guernsey, the mandate and responsibilities of the Emergency Council were transferred to the Policy Council. The responsibilities of the Civil Defence Committee were transferred to Home Department and an Emergency Planning Officer has been appointed to ensure that co-ordinated contingency plans are in place to deal with a major incident arising from any circumstances.
6. Since the break up of the Soviet Union, and the collapse of the Warsaw Pact the threat of "hostile attack by a foreign power" locally and in the UK has been replaced by the threat of terrorist attack. The impact of the 11th of September 2001 has also been widely felt. In addition the legal environment in relation to such matters as Human Rights and military assistance to civil powers has been subject to considerable revision and re-interpretation.
7. The UK has recently updated its legislation through the enactment of the Civil Contingencies Act 2004, this having been brought about by the Fuel Crisis of 2000 and the outbreak of foot and mouth disease. The 2004 Act enables, in particular, the civilian administration to respond to terrorist acts, including use of chemical, biological or radioactive ("dirty") bombs and to take necessary measures consequent upon concerted terrorism directed at the population at large.
8. Arrangements in the UK for monitoring threats and dealing with emergencies have consequently been subject to considerable change and the Island needs to ensure that it is able to "plug into" those new arrangements. The Island also needs to ensure that it can react quickly and decisively to any threat.
9. This has prompted a review of local arrangements for monitoring threats and the legislative and administrative arrangements for calling on assistance to deal with major incidents and emergencies. A group, the core members of which are H.M. Procureur, the Chief Executive of the States, the Chief Officer of the Home Department and the Chief Officer of Police (the Emergency Powers Advisory Group "EPAG") undertook a strategic review of constitutional, legal and institutional issues relating to the Island's readiness to deal with a terrorist threat. All members of EPAG had to have security clearance in order to ensure that the UK authorities would be prepared to discuss some aspects of terrorist threats. The review has concluded as follows.

- The Chief Minister should lead a political body that has the authority to introduce and exercise emergency powers and also has a day-to-day monitoring role. That body should be supported by an appropriate staff level group comprising the existing members of EPAG. To function effectively all members of both the political body and the staff group will need to take an oath of office before the Bailiff. Breaching that oath will be a criminal offence. Furthermore, any threatened breach may be restrained by injunction at the instance of H. M. Procureur.
- Representatives of other Departments and/or of Alderney and Sark may be invited to attend, in a non-voting capacity, meetings of the body which has the authority to introduce and exercise emergency powers. These additional representatives will also be required to take an oath. Clearly, the body will meet during times of emergency but it may also meet at such other times as the Chairman considers necessary to fulfil its monitoring role.
- Because of the possible legal and constitutional implications, the body that has the authority to introduce and exercise emergency powers should be obliged to receive the advice of a Law Officer of the Crown before exercising such authority. Whilst it is no longer appropriate for the Bailiff, as a member of the judiciary, to undertake an executive role, it should be made clear that it will in certain cases continue to be appropriate to consult him and seek his advice in relation to emergency situations.
- The 1965 Law should eventually be replaced with new legislation along the lines of the UK Civil Contingencies Act 2004 with such adaptations and modifications as are appropriate for the Bailiwick. As an interim measure until such new legislation is drawn up and enacted, the 1965 Law should be amended to provide that emergency powers can also be exercised for the purpose of protecting the economic interests of the Bailiwick or any part thereof, or where there is a threat to security, public order or public health within the Bailiwick or any part thereof arising from any actual or threatened act of terrorism, as well as for securing the essentials of life to the community. A draft projet de loi entitled The Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005 is included in the brochure accompanying the Billet d'État containing this report.
- The draft projet de loi amends the 1965 Law as mentioned above and also contains provisions relating to the transfer of functions to the new body proposed in paragraph 10 below which will have the authority to introduce and exercise emergency powers.
- The mandate of the new body should reflect the amended 1965 Law.

10. The Policy Council concurs with the conclusions of the review and has given consideration as to how such a body may be established within the principles of the restructuring of the States implemented from May 2004. It therefore proposes that the body be an authority of the Policy Council but with autonomous responsibilities in relation to the monitoring of threats and the implementation of Emergency Powers and that it be called 'The Emergency Powers Authority'.
11. It is proposed that its membership should comprise the Chief Minister (or, in his absence, the Deputy Chief Minister) as Chairman, the Minister of the Home Department and one other minister chosen by the Chief Minister having regard to the nature of the emergency from a Panel of five Ministers appointed by the Policy Council. A Law Officer would be required to be present at all meetings of the Authority. In the absence of both the Chief Minister and Deputy Chief Minister the senior Panel Member will act in their stead.
12. To achieve this, amendments will need to be made to the Rules relating to the Constitution and Operation of States Departments and Committees which currently prohibits the Chief Minister from sitting on any States Department or Committee and which defines their constitution and quorum requirements. The quorum currently in force for the Legislation Select Committee when exercising its powers relating to the early enactment of legislation is two persons and this would also be appropriate for the proposed body. As a quasi-independent body its resolutions will not require ratification or other endorsement by the Policy Council.
13. The House Committee, which has responsibility for the Rules, is content with the proposed amendments set out in the recommendations below.

Recommendation

The Policy Council recommends the States to:

- (1) establish The Emergency Powers Authority as an authority of the Policy Council;
- (2) resolve that the mandate of the Emergency Powers Authority shall be as set out in Annex 1 to this report;
- (3) amend the Rules relating to the Constitution and Operation of States Departments and Committees made by the States on 30th October 2003 as follows:
 - (a) in Rule 3(2) before the full stop insert the words "other than the Emergency Powers Authority";
 - (b) after Rule 16 insert a new rule as follows:

"Emergency Powers Authority

17. (1) The Emergency Powers Authority shall be constituted as an authority of the Policy Council as follows:

A chairman who shall be the Chief Minister or, if he is absent, indisposed or otherwise unable to attend, the Deputy Chief Minister. If both the Chief Minister and Deputy Chief Minister are unable to act the senior Panel Member (or, if he is senior to any Panel Member, the Minister of the Home Department) shall be Chairman;

The Minister of the Home Department;

One other member of the Policy Council chosen by the Chief Minister or, if he is absent, indisposed or otherwise unable to act, the Deputy Chief Minister or, if both the Chief Minister and Deputy Chief Minister are unable to act, the senior Panel Member, (or, if he is senior to any Panel Member, the Minister of the Home Department), having regard to the nature of the emergency drawn from a Panel of five Ministers appointed by the Policy Council.

- (2) Resolutions of the Authority shall not be subject to ratification or other review or approval by the Policy Council.
- (3) The quorum of the Authority shall be any two members.
- (4) One of the Law Officers shall be present at all meetings of the Authority.
- (5) The Bailiff shall be given prior notice of all meetings of the Authority and shall be entitled to advise and warn the Authority with regard to any matter relevant to its deliberations.
- (6) Rules 6 (casting votes), 7 (terms of office), 14(1) and 14(2) (presence of officers etc) and 15 (declarations of financial interest) shall apply where the context so permits to the Authority.";

(c) renumber existing Rules 17, 18 and 19 as 18, 19 and 20 respectively;

- (4) resolve that The Emergency Powers (Bailiwick of Guernsey) Law, 1965, as amended, be further amended to provide appropriate oaths for members, ad hoc representatives (e.g. Alderney and Sark representatives) and officers of the Authority, to provide that emergency powers can be exercised for the purpose of

protecting the economic interests of the Bailiwick or any part thereof, or where there is a threat to security, public order or public health within the Bailiwick or any part thereof arising from any actual or threatened act of terrorism, and to provide for the transfer of functions to the Authority;

- (5) approve The Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005;
- (6) direct The Emergency Powers Authority to bring forward proposals to replace the Emergency Powers (Bailiwick of Guernsey) Law, 1965, as amended with new legislation on the lines of the UK Civil Contingencies Act 2004.

LC Morgan
Chief Minister

20th January 2005

Annex 1

Emergency Powers Authority

MANDATE

- (a) To take such steps as it may consider necessary or expedient to ensure, in the event of a state of emergency arising under any circumstances, the preservation and maintenance of supplies and services essential to life in, the protection of the economic interests of the Bailiwick or any part thereof, the well-being and security of the community, the safeguarding of public health, the maintaining of security and law and order, and the carrying out of all executive and administrative acts of government.
- (b) To exercise the powers and duties conferred on it by extant States resolutions and legislation including the Emergency Powers (Bailiwick of Guernsey) Law, 1965, as amended.
- (c) To be accountable to the States for the management and safeguarding of public funds and other resources entrusted to the Authority.

The States are asked to decide:-

I.- Whether, after consideration of the Report dated 20th January, 2005, of the Policy Council, they are of the opinion:-

1. To establish The Emergency Powers Authority as an authority of the Policy Council.
2. That the mandate of the Emergency Powers Authority shall be as set out in Annex 1 to that Report.
3. To amend the Rules relating to the Constitution and Operation of States Departments and Committees made by the States on 30th October 2003 as follows:
 - (a) in Rule 3(2) before the full stop insert the words “other than the Emergency Powers Authority”;
 - (b) after Rule 16 insert a new rule as follows:

"Emergency Powers Authority

17. (1) The Emergency Powers Authority shall be constituted as an authority of the Policy Council as follows:

A chairman who shall be the Chief Minister or, if he is absent, indisposed or otherwise unable to attend, the Deputy Chief Minister. If both the Chief Minister and Deputy Chief Minister are unable to act the senior Panel Member (or, if he is senior to any Panel Member, the Minister of the Home Department) shall be Chairman;

The Minister of the Home Department;

One other member of the Policy Council chosen by the Chief Minister or, if he is absent, indisposed or otherwise unable to act, the Deputy Chief Minister or, if both the Chief Minister and Deputy Chief Minister are unable to act, the senior Panel Member, (or, if he is senior to any Panel Member, the Minister of the Home Department), having regard to the nature of the emergency drawn from a Panel of five Ministers appointed by the Policy Council.

- (2) Resolutions of the Authority shall not be subject to ratification or other review or approval by the Policy Council.
- (3) The quorum of the Authority shall be any two members.

- (4) One of the Law Officers shall be present at all meetings of the Authority.
- (5) The Bailiff shall be given prior notice of all meetings of the Authority and shall be entitled to advise and warn the Authority with regard to any matter relevant to its deliberations.
- (6) Rules 6 (casting votes), 7 (terms of office), 14(1) and 14(2) (presence of officers etc) and 15 (declarations of financial interest) shall apply where the context so permits to the Authority."

(c) renumber existing Rules 17, 18 and 19 as 18, 19 and 20 respectively.

- 4. That The Emergency Powers (Bailiwick of Guernsey) Law, 1965, as amended, be further amended to provide appropriate oaths for members, ad hoc representatives (e.g. Alderney and Sark representatives) and officers of the Authority, to provide that emergency powers can be exercised for the purpose of protecting the economic interests of the Bailiwick or any part thereof, or where there is a threat to security, public order or public health within the Bailiwick or any part thereof arising from any actual or threatened act of terrorism, and to provide for the transfer of functions to the Authority.
- 5. To approve the Projet de Loi entitled "The Emergency Powers (Bailiwick of 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.
- 6. To direct The Emergency Powers Authority to bring forward proposals to replace the Emergency Powers (Bailiwick of Guernsey) Law, 1965, as amended with new legislation on the lines of the UK Civil Contingencies Act 2004.

HOUSING DEPARTMENT

STATES HOUSE TENANCIES

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

27th January 2005

Dear Sir

Executive Summary

- 1) **The prime purpose of this Report is to establish a statutory framework for dealing with matters arising out of, or related to, States' housing tenancies.**
- 2) **The States are being asked:**
 - a) **To note that a new States Housing Tenancy Agreement is being introduced in order to establish, on a statutory basis, fair and unequivocal but comprehensive terms and conditions covering landlord/ tenant issues.**
 - b) **To note that the Department, in exercise of its responsibility to develop and maintain a proper framework of policies and procedures dealing with the occupation of its properties, will take account of human rights.**
 - c) **To endorse the continuation of the policy of reviewing States' housing tenancies on the basis of "housing need" with the aim of ensuring the optimum utilisation of the social housing stock being provided by the States.**
 - d) **To agree the constitution of a new independent Housing Appeals Tribunal to consider appeals from tenants or prospective tenants who are aggrieved by decisions of the Housing Department on tenancy and related matters, except those that are susceptible of being dealt with by the Royal Court.**
 - e) **To approve the States Housing (Termination of Tenancies)(Guernsey) Ordinance, 2005 which will terminate, as from midnight on the 6th May 2005, all States' housing tenancies,**

which will be replaced by the statutory tenancy described in subparagraph a) above.

- 3) These proposals will complement the new States Rent and Rebate Scheme to be implemented on 7th May 2005, in order to provide an holistic approach to the management of the States' social housing stock from that date.

Introduction

- 4) To date, matters relating to the occupation of States' houses by persons in need of social housing have been established and administered on the basis of various States Resolutions.
- 5) However, in its Report to the States entitled "Proposals for a new States Rent and Rebate Scheme" (Billet d'Etat XX of 2004), the Department stated, on the basis of legal advice, that all tenancy matters should now be made effective by way of legislative provision. That legal advice arose from discussions with H.M.Procureur, in relation to the human rights' aspects of the management of States' housing.
- 6) The States, after consideration of the above Report resolved, inter alia, as follows:

"11. To approve the enactment of legislation enabling implementation of the Rent and Rebate Scheme and the general regulation of the terms and conditions of occupation of States residential housing as outlined in that Report."

- 7) This resulted in the Projet de Loi entitled "The States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004", which was approved by the States on 8th December 2004.

States Housing Tenancies – Terms and Conditions

- 8) Hitherto, the terms and conditions of States' housing tenancies have been set out in a simple agreement, which has remained virtually unchanged in the past fifty or so years. This Agreement provides for a weekly tenancy, and sets out minimal terms and conditions of occupation, appropriate to the circumstances prevailing when they were initially introduced. However, experience in managing States' housing tenancies, and recent legal advice, have shown those terms and conditions to be wholly inadequate to meet today's requirements for establishing an effective and enforceable landlord/tenant relationship between the States and its individual tenants, and for the better management of the States' housing stock.
- 9) Accordingly, the Law referred to in paragraph 7 above makes the following

provisions:

“1(1) The States may by Ordinance terminate any States housing tenancy..... with effect from such date as may be specified by the Ordinance.

2(1) The Department may by regulation make such provision as it thinks fit for the purpose of—

(a) prescribing the terms and conditions of the tenancies under which persons or any prescribed class or description of persons, shall occupy States residential property,

(b) amending, modifying or disapplying any or all such terms and conditions, and

(c) terminating any such tenancy or any terms and conditions thereof.”

- 10) Against this background, and to coincide with the introduction of the new Rent and Rebate Scheme on 7th May 2005, the Department intends to take the following action:
 - a) With the agreement of the Policy Council (for which I am grateful), to lay before the States with this Report an Ordinance to provide for the termination of all of its existing housing tenancies on and from 7th May 2005.
 - b) To prescribe by Regulations, the new terms and conditions for States' housing tenancies, to come into effect on 7th May 2005.
- 11) In essence, tenants of the Department on 7th May 2005 will be subject to a 'seamless' transition from their existing tenancy to a new statutory Tenancy Agreement. Tenants will **not** be required to take any action in regard to the continued occupation of their current homes. The change will **not** nullify any accrued rights under existing agreements, **nor** will it affect any liabilities or obligations to the Department incurred under them. However, the changes will have the benefit of creating, for the first time in Guernsey, a **statutory tenancy** regime for tenants of the Department.

Proposed new Terms and Conditions of Tenancies

- 12) The document at Appendix 1, for introduction on and from 7th May 2005, sets out the proposed terms and conditions of the new Tenancy Agreement. It sets out the respective rights and responsibilities of tenants and the Department, acting as landlord on behalf of the States.

- 13) Having reproduced the draft Agreement in full, the Department does not intend to expand upon its detail, but would draw attention to the following points about its contents:
- a) The Agreement has been drafted having regard to the European Convention on Human Rights, soon to be incorporated into domestic law; and in particular to Article 8 which embodies for all “the right to respect for his private and family life, *his home and his correspondence*”;
 - b) The Department is reflecting in the Agreement its aim of ensuring that tenants can enjoy respect for their individual homes whilst at the same time contributing to the wellbeing of their neighbourhood, and have the benefit of properties being well-managed by their landlord, i.e. the Department; and
 - c) The terms of the Agreement reflect those of the private sector but modified to suit the typical circumstances of States' tenants and housing stock.

Tenancy Policies and Procedures

- 14) The Department is in the process of developing a new framework of policies and procedures to support the new tenancy arrangements. These will incorporate much of what has been practised by the Department in recent years, but also include new and updated policies needed to complete a housing management framework suitable for today's circumstances.
- 15) For the information of the States, a list of the policies and procedures currently being developed are set out in Appendix 2. These policies and procedures will be dynamic documents that will evolve and be modified as a result of experience, together with changes in the community's attitudes and expectations. It is intended to publish these policies and procedures later this year.

Eligibility for States Housing

- 16) The Department also wishes to take this opportunity of informing the States that it has under review the criteria for eligibility for States' housing and the points system used for prioritising the needs of applicants on the waiting list. Both of these reviews are being undertaken in conjunction with the Guernsey Housing Association, with whom the Department maintains a joint waiting list, in order that an integrated approach is taken in addressing the needs of persons who are financially unable to enter the private housing market. Once these reviews have been completed (the completion target is May 2005), the Department will publish the new eligibility criteria and points system. They will then be kept under review as further progress is made in providing more housing options for

persons in the intermediate housing market through the implementation of the Corporate Housing Programme.

Review of Tenancies

- 17) Under Clause 1(9) of the Tenancy Agreement, the Department is reserving the right to carry out a review of a tenancy at any time.
- 18) This clause has its roots in a report from the Housing Authority presented to the States at their meeting on 31st October 1991 (Billet d'Etat XXIII of 1991), when the States resolved, *inter alia*, as follows:
 - "1. To approve the modification of the transfer and exchange schemes, including the re-allocation of tenancies, in appropriate cases, as described in paragraph 35 of that Report.*
 - 2 To approve the introduction of a system for the re-assessment of tenancies at periods not exceeding five years' duration of each tenancy, as described in paragraphs 39 – 45 of that Report."*
- 19) The basis of these resolutions is summarised in the policy letter as follows:
 - "2 The Housing Authority firmly believes it has a duty to ensure that the best possible use is being made of the housing for which it is responsible. This duty in turn demands a responsibility to ensure that housing provided by, and in the continued ownership of, the States is reserved as a matter of priority for those in "housing need".*
 - 3 "Housing need", as it relates to States tenancies, is a term defined in more detail below. It should be stressed from the outset, however, that in order to accommodate those in housing need it is most important to make the best possible use of housing in States rental. For if the best possible use is not made of that housing stock, then many tenants will continue to have to live in dwellings that are no longer big enough for their needs, or more seriously many families in dire need of re-housing must remain on the Housing Authority's waiting list for a States house because some States housing is under-utilised or occupied by those of sufficient means to move into private sector accommodation.*
 - 4. Failure to ensure optimum utilisation of the existing housing stock will, of course, generate an ever-increasing pressure for a much larger public house building programme."*
- 20) These views are equally pertinent today. Statistics held by the Department indicate an inefficient use of some elements of the States' housing stock, through both over- and under-occupation. The under-occupation of properties is of particular concern to the Department because this works to the detriment of

families who either have to remain on the waiting list or who have to continue to occupy over-crowded States' accommodation. The recently approved changes to the Rent and Rebate Scheme will provide a further encouragement to tenants to transfer from under-occupied properties because the new Scheme creates much wider differentials in the rental value of properties. Consequently, it will now be to the financial benefit of tenants to downsize and the Department hopes that this, coupled with the increased provision of smaller, modern housing units (primarily through the Guernsey Housing Association), will provide the extra incentive to tenants actively to seek transfers.

- 21) Nevertheless, while the overall position will improve significantly when all the dwellings presently being built on various housing association sites are occupied (as 75% of tenants will be nominated by the Department), the objective of optimising the efficient use of the Island's social housing stock must remain, notwithstanding that this will mean some tenants moving from properties that they have lived in for many years.
- 22) The Department therefore proposes to continue the policy of tenancy review based upon the re-assessment of tenants' ongoing social housing need. Such reviews will take into account the tenants' current circumstances, including their financial position, the composition of their households, and any pertinent health or social issues.¹
- 23) When conducting tenancy reviews, the Department will determine, on consideration of all relevant facts, whether:
 - a) to renew the existing tenancy;
 - b) to offer an alternative tenancy, appropriate to the tenants' changed housing needs; or
 - c) to terminate the tenancy.
- 24) The Department wishes to stress that option c) will only be exercised in cases where:
 - a) there are clear opportunities for alternative housing, either to purchase or rent, through the broadening opportunities being offered through the Corporate Housing Programme (for example, partial ownership, assisted purchase, rental from a housing association etc.); **and**
 - b) the re-assessment demonstrates a tenant's ability to afford such accommodation in both the short- and medium-term; **and**

¹ A distinction needs to be drawn to differentiate "housing need" reviews from "legal" reviews, which relate to cases where there have been significant breaches of the Tenancy Agreement, and action against a tenant has to be considered.

- c) there are other tenants or people on the Department's Waiting List who are in greater housing need for the type of accommodation in question.
- 25) However, the Department recognises that many tenants will remain in "housing need" all of their lives and it is the Department's intention to continue to meet that need. Consequently, although the periodic reviews will involve a "re-pointing" of a tenant's current housing need, in the same way that eligibility for States' housing is initially assessed, the Department will exercise its judgement, discretion and compassion based on the merits of each individual case.
- 26) Consequently, the Department would not expect to terminate the tenancies of:
- a) families with dependents, where there has been no significant increase in income; or
 - b) couples without dependents, who are enjoying higher income but who are approaching retirement and could not in the long-term sustain the financial burden of other housing options.

However, if in such cases overcrowding or under-occupation were a factor, the Department would seek to offer an alternative tenancy for more appropriately sized accommodation.

Independent Review of Appeals against Tenancy Reviews

- 27) The Housing Authority presented two Reports to the States in 1992 (Billets d'Etat VIII and XVII), which resulted in the establishment of the "States Tenancies Independent Review Tribunal", specifically to hear appeals in relation to tenancy reviews. The Tribunal was given secretarial and administrative support through the Advisory and Finance Committee, and has considered 8 cases since its establishment in 1992. However, having regard to the ECHR legislation, the Tribunal can no longer be regarded as 'independent' from the States. Accordingly, the Department recommends the establishment of a replacement tribunal, but with a wider mandate to consider appeals from people who are aggrieved by the Department's decisions on tenancy and related matters (including rent rebate assessments), other than those that are subject to a right to apply to the Royal Court. (The latter relate to cases, for example, where the Department decides to seek Eviction Orders, against which a former tenant or occupier can apply for a stay of eviction under the Eviction (Guernsey) Laws, 1946 and 1954.)
- 28) In the near future, the Department will introduce regulations setting out the decisions that will be subject to appeal and how the Tribunal will operate. In the meantime, the following paragraphs recommend how the Tribunal should be constituted.

Constitution of the proposed Tribunal

29) The Department wishes to see the Tribunal constituted as follows:

- a) It is proposed that the Tribunal (which will be called the Housing Appeals Tribunal) should follow models used previously, for example, in the establishment of the Utilities Appeals Tribunal.
- b) The Department recommends firstly that the States should appoint a Housing Appeals Panel from which members of the Tribunal would from time to time be drawn.
- c) The Panel must consist of a sufficient number of persons to hear appeals against decisions of the Department and the members of the Panel must be persons with experience, knowledge or qualities relevant to the hearing of such appeals.
- d) Appendix 3 to this Report lists the persons who the Department recommends should be the first appointees to the Panel. A brief synopsis of their qualifications and experience is given.
- e) The States will also be asked to designate one member of the Panel as Chairman of the Panel and another as Deputy Chairman thereof. The Department recommends that the persons designated in Appendix 3 as Chairman and Deputy Chairman should be respectively appointed to those positions.
- f) The following persons will not be eligible to be appointed to the Panel:
 - i) Members of the States of Deliberation and States of Election.
 - ii) Members of the States of Alderney and the Chief Pleas of Sark.
 - iii) Any Constable or Douzenier.
 - iv) Any Procureur or Overseer of the Poor or a member of a Parochial Outdoor Assistance Board.
- g) When an appeal is instituted against a relevant decision of the Department, the Chairman or, if he is unavailable, the Deputy Chairman will appoint three persons from the Panel to constitute the Tribunal to hear the appeal. The Chairman must nominate one of those three members to chair the Tribunal. He will of course be able to appoint himself.
- h) The regulations establishing the Tribunal will contain provisions as to

the confidentiality of information. The regulations will empower the Tribunal to apply to the Royal Court for directions, and to refer points of law to the Royal Court. They will also lay down detailed rules as to the procedure to be followed by, and the powers to be available to, the Tribunal in hearing appeals.

- i) The Department will appoint a Clerk to the Tribunal, and Deputy Clerks, and provide such other officers and facilities as may be necessary.
 - j) The Tribunal will also be able to hear appeals from tenancy related decisions of the Guernsey Housing Association.
- 30) The Department estimates that the running costs for the Tribunal, based on Panel members claiming the attendance rate applicable to non-States Members, will be £7,000 per annum. (This is exclusive of the costs of the staff member that will be providing basic administrative support as Clerk to the Tribunal, as part of their overall duties.) These costs will be met from the States Houses Fund.

Staffing

- 31) If the States accepts these recommendations, there will not be a need for any additional staff to be employed by the Department. This is as a result of the increased establishment approved by the Treasury and Resources Department in connection with the introduction of the revised Rent and Rebate Scheme.

Legislative Requirements

- 32) The enabling legislation stemming from the Department's recommendations has already been enacted through the provisions of The States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004, approved by the States on 8th December 2004.
- 33) The considerable additional legislative requirements will be met through the framework established by the above Law and will include an Ordinance terminating existing tenancies as at midnight on 6th May 2005 (submitted with this Report) and Regulations covering, inter alia:
- a) the introduction of the new Tenancy Agreement from 7th May 2005;
 - b) the commencement of the new Rent and Rebate Scheme from the above date; and
 - c) the establishment of the Appeals Tribunal.

Conclusion

- 34) The Department believes that the introduction of a statutory framework for

States' housing tenancies will have a number of benefits, namely:

- a) Tenants will have a new statutory Tenancy Agreement to replace outmoded Conditions of Tenancy.
- b) The Department will be able to develop within the new statutory framework effective policies and procedures governing tenancy and related matters which, when used in conjunction with the new Rent and Rebate Scheme, will greatly assist with the efficient management of the States' housing stock.
- c) The decision-making processes involved in tenancy and related matters will become transparent and an independent Appeals Tribunal will be established to hear appeals against such decisions taken by the Department.

Recommendations

35) The Department recommends the States:

- a) To note that a new States Housing Tenancy Agreement, along the lines set out in Appendix 1 of this Report, shall come into effect from 7th May 2005.
- b) To approve The States Housing (Termination of Tenancies) (Guernsey) Ordinance, 2005 terminating all existing States' residential tenancies with effect from midnight, 6th May 2005.
- c) To note that the Housing Department will shortly be publishing and implementing new policies and procedures dealing with tenancy and related matters (including the eligibility criteria and points system), as set out in Appendix 2 of this Report.
- d) To confirm that to make best use of the States housing stock, States' Housing tenancies shall be subject to review by the Housing Department at any time, such reviews to be undertaken as described in paragraphs 17 - 26 of this Report.
- e) To note that a Housing Appeals Tribunal will be established to consider appeals from people who are aggrieved by decisions of the Housing Department on tenancy and related matters, as set out in paragraphs 27 - 28 of this Report.
- f) To appoint the persons listed in Appendix 3 to this Report to the Housing Appeals Panel and to appoint, as Chairman and Deputy Chairman of the Panel, the persons respectively designated to those offices in Appendix 3.

- g) To agree that the Housing Appeals Tribunal be constituted as set out in paragraphs 29 - 30 of this Report.
- h) To agree that the States Tenancies Independent Review Tribunal shall be disbanded and that Resolutions 1 and 2 of article XXII on Billet d'Etat XVII of 1992 be rescinded.

Yours faithfully

D Jones
Minister

APPENDIX 1 – PROPOSED TERMS AND CONDITIONS OF THE NEW TENANCY AGREEMENT

TENANCY AGREEMENT

DATE:

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BETWEEN

- (1) **THE STATES OF GUERNSEY** acting by and through the States Housing Department of Sir Charles Frossard House, La Charroterie, St. Peter Port, GY1 1FH.

AND

- (2) **THE TENANT** whose name is set out in the Particulars

In the case of joint tenants the term “Tenant” applies to all or any of them, and each Tenant individually has all the responsibilities set out in this Agreement.

IT IS AGREED as follows:

1. The States lets the Property to the Tenant upon the Standard Tenancy Conditions.
2. The Standard Tenancy Conditions shall apply to and be incorporated in this Agreement.
3. The States agrees to comply with the obligations on its part set out in the Standard Tenancy Conditions.
4. The Tenant agrees to comply with the obligations on his part set out in the Standard Tenancy Conditions.
5. The Particulars attached to this Agreement are incorporated and form part of this Agreement.

AS WITNESS the States and the Tenant have executed this agreement on the date appearing at the head of this Agreement.

PARTICULARS OF TENANCY AGREEMENT

Full Names of the Tenant(s)	
Full Address of Property:	
The Property:	Being an unfurnished [Flat/Maisonette/House] at the above address [and outbuildings] including all of the Department's fixtures and fittings and other items at the Property [and the sole/shared use of the garden]
The Rent:	<p>Based upon a 52 week year the weekly payments for the Property are:</p> <p>Standard Rent: Water Rates: Other Charges: _____</p> <p>Total Rent _____</p>
Occupants:	<p>Name: _____ Date of Birth: _____ Relationship to Tenant(s): _____</p>
Start of Tenancy:	At [] on []
Payment Dates:	Weekly in advance on [] day of each week

STANDARD TENANCY CONDITIONS

1. GENERAL TERMS

Definitions

1.1. In this Agreement:

- 1.1.1. “Common Parts” means the entrance lobbies, access, balconies, lifts, staircases and rubbish chutes of a building and the access roads, paths and walkways, play and leisure areas, parking areas and open spaces of the Estate;
- 1.1.2. “Department” means the States Housing Department;
- 1.1.3. “Estate” means the building and estate of which the Property forms part and includes the Property and any other buildings or residential accommodation on the Estate or nearby and the common parts of the Estate;
- 1.1.4. “Household” includes the Tenant’s spouse and all persons occupying the Property;
- 1.1.5. “Particulars” means the particulars attached to these Standard Tenancy Conditions and forming part of this Agreement;
- 1.1.6. “Property” means the property specified in the Particulars;
- 1.1.7. “Rent” has the meaning in clause 1.2 below;
- 1.1.8. “Spouse” includes partner;
- 1.1.9. “Tenancy” means this Agreement including these Standard Tenancy Conditions;
- 1.1.10. “Tenant” means the persons whose names are set out in the Particulars;
- 1.1.11. The singular includes the plural and the masculine includes the feminine and in each case vice versa.

Payments for Property & Other Charges

- 1.2. “Rent” refers to the sum of the Standard Rent, Water Rates and Other Charges which may include charges for maintenance, parking, garages and other items

agreed between the Tenant and the Department, as set out in the Particulars or as varied from time to time in accordance with this Tenancy.

Payment of Rent

- 1.3. The Tenant must pay the total Rent when due.

Changes in Rent

- 1.4.

1.4.1. The Department can vary the amount of the Rent by serving not less than 7 days notice on the Tenant.

1.4.2. If the Tenant fails to inform the Department of any change in circumstances whereby the Department would be able to change the Rent the Department can charge the Standard Rent and in addition claim any Rent that would otherwise have been payable.

Late Payment of Rent

- 1.5. If the Rent is in arrears for seven days after becoming due whether legally demanded or not (except in cases where Rent is unpaid as a result of an error by the Tenant's bank in making payment under Banker's Order direct debit or where mandate payments have been made by an employer – in which case the Tenant shall be bound to pay the Rent upon being notified of such error), or if the Tenant is in breach of any of his responsibilities under this Tenancy, the Department may cancel this Tenancy and repossess the Property at any time after seven days notice to the Tenant of such arrears or breach, but without prejudice to any other right or remedy of the Department.

Re-Possession of Property

- 1.6. In any of the following circumstances the Department can cancel the Tenancy on seven days notice and repossess the Property.
- 1.6.1. If the Tenant makes a false statement deliberately or recklessly which the Department relies upon in granting the Tenancy.
- 1.6.2. If the Tenant has submitted a fraudulent claim for a Rent Rebate or has failed to advise the Department of a change in circumstances, which would result in the loss or change in the entitlement to a Rent Rebate and such action does not affect the right of the Department to recover the amount fraudulently claimed or withheld, plus the legal costs of any recovery, and interest on the arrears due.

- 1.6.3. If the Tenant fails to return to the Property after occupying temporary accommodation whilst works are carried out to the Property and these works are completed.
- 1.6.4. If following a review the Department has determined that:
 - 1.6.4.1. the Tenant is no longer eligible for States housing; or
 - 1.6.4.2. the Property is no longer appropriate to the Tenant's needs but is required by the Department to meet the housing needs of other persons, and suitable alternative accommodation is made available to the Tenant by the Department, or through another social housing landlord in Guernsey.
- 1.7. The Tenant must not purchase, lease, own or have an interest in another residential property or any land, either alone or jointly, whether in Guernsey or elsewhere, without immediately informing the Department in writing.
- 1.8. The Department may offset any sums owed to it by the Tenant against any sums payable by it under this Agreement.

Service of Notices by Landlord

- 1.9. Any notice under the Tenancy served by the Department shall be deemed validly served if it is:
 - 1.9.1. handed to the Tenant;
 - 1.9.2. handed to an adult member of the household of the Tenant;
 - 1.9.3. handed to a reliable adult who undertook to bring the document to the attention of the Tenant; or
 - 1.9.4. sent by ordinary letter post or hand delivered by a Department representative to the Property.

Services of Notices by Tenant

- 1.10. Any notice served by the Tenant (including notices in court or tribunal proceedings) shall be deemed validly served if addressed to the Department and
 - 1.10.1. handed to an officer at the Department at Sir Charles Frossard House; or
 - 1.10.2. sent by recorded delivery post to the Department at the address above.

Notices

1.11.

1.11.1. The Department may by Regulation change the provisions of 1.9 or 1.10 and provide generally for the service of notices.

1.11.2. All notices must be in writing.

Variation

1.12. The Department can from time to time, vary the Tenancy by Regulation, or by giving notice to the Tenant of not less than seven days.

Review of the Tenancy

1.13. Notwithstanding any other provisions, the Department can carry out a review of the Tenancy at any time and in such case the Tenant is required to co-operate and to provide such details of his and his spouse's circumstances and of the composition of the household as the Department may reasonably request. The Tenant will be given notice in writing of the results of such a review.

Data Protection

1.14. For the purposes of The Data Protection (Bailiwick of Guernsey) Law, 2001:

1.14.1. The Tenant agrees that the Department may disclose on a confidential basis personal information (excluding sensitive information), which it holds about the Tenant and the household to other providers of social housing in Guernsey in pursuit of its objectives of providing well-managed housing to those in need.

1.14.2. The Tenant has the right to see his personal records at any reasonable time agreed in advance with the Department on payment of a reasonable fee.

Termination

1.15. This Tenancy can be terminated by seven days notice by either the Tenant or the Department

2. DEPARTMENT'S RESPONSIBILITIES

The Department agrees:

Possession

- 2.1. To give the Tenant possession of the Property at the start of the Tenancy and to provide the Tenant with a key for each exterior lock for the Property.

Tenant's Rights to Occupy

- 2.2. Not to interrupt or interfere with the Tenant's rights to occupy peacefully the Property so long as the Tenant complies with the terms of the Tenancy, except where:
 - 2.2.1. access is required by the Department;
 - 2.2.2. the Tenant has surrendered the Tenancy; or
 - 2.2.3. a court has given possession of the Property to the Department.

Repairs

- 2.3. To keep the Property in a structurally sound state of repair and condition which includes responsibility for the following matters where they are not set out in this Agreement as being the Tenant's responsibility:
 - 2.3.1. External repairs and maintenance.
 - 2.3.2. Lift maintenance.
 - 2.3.3. Communal lighting.
 - 2.3.4. Drains and gutters.
 - 2.3.5. Common Parts repairs.
 - 2.3.6. Exterior painting.
 - 2.3.7. Windows (excluding glazing and cleaning).
 - 2.3.8. Communal and hard surface pathways.
 - 2.3.9. Fitted fires and radiators installed by the Department.
 - 2.3.10. Estate lighting and amenity areas (except public services or parish lights on a public thoroughfare).

- 2.3.11. Communal TV aerials & satellite systems.
- 2.3.12. Gas and water pipes.
- 2.3.13. Electrical wiring and sockets/switches.
- 2.3.14. Hot water systems and central heating where fitted.
- 2.3.15. Basins, sinks, baths, showers and toilets installed by the Department.

Insurance

- 2.4. To keep the Property insured to its full re-instatement value against fire, storm and all other usual property risks, but excluding accidental damage to the Tenant's contents or property.

TRV and Occupiers Rates

- 2.5. To pay the Tax on Rateable Value and the Occupier's Rate levied in respect of the Property.

3. TENANT'S RESPONSIBILITIES

The Tenant agrees:

Possession

- 3.1. Not to part with possession of the Property or sub-let or share occupation of all or any part of the Property and will not leave anyone else living at the Property when he moves out.

Occupation

- 3.2. To use and occupy the Property as the Tenant's only home as a single dwelling in the occupation of the Tenant and the household.

Absence from the Property

- 3.3. To inform the Department in writing as soon as possible if the Tenant intends to leave and be away from the Property for a period of more than four weeks. Such notification must include the anticipated date of the Tenant's return to the Property and provide the Department with a contact address and telephone number during the absence. Where such notification is not received and the Tenant is absent for more than two consecutive months the Department, at its

sole discretion, can treat the Property as abandoned and retake possession of the Property.

Security and Keys

- 3.4. To take full responsibility for the security of the Property and its keys. The Tenant shall be liable to replace all keys lost or broken and, if necessary, all locks in the event of keys being lost or broken in locks.

Use of Property

3.5.

3.5.1. Not to operate a business at or from the Property without first obtaining the consent of the Department in writing.

3.5.2. Not to use or allow to be used the Property for any criminal, immoral or illegal purpose.

Change in circumstances

- 3.6. To notify the Department in writing within one week of any change in the composition of the household or in the circumstances of the Tenant or any member of the household which might affect the level of Rent Rebate or the continuation of the Tenancy.

Rent Payment

- 3.7. To pay the Rent and all other charges weekly in advance without deduction or set off.

Nuisance

- 3.8. Not to do or permit anything which in the opinion of the Department causes or is likely to cause a nuisance or annoyance to any persons on the Estate or to any neighbours or to employees agents or contractors of the Department whether by the Tenant, members of the household, visitors or animals.

Criminal Activities

- 3.9. Not to conduct any illegal activities at or in the vicinity of the Property or on the Estate or on any of the Department's other properties, nor to allow members of the household or any visitors to the Property to do so.

Illegal Drugs

- 3.10. Not to possess supply or deal in illegal drugs at or in the vicinity of the Property or on the Estate or on the Department's other properties and not to allow members of the household or any visitors to the Property to do so.

Harassment

- 3.11. Not to commit or allow members of the household or any visitors to the Property to commit any form of abuse or harassment on any grounds including (but not limited to) race, colour, religion, sex, sexual orientation, age, physical or mental disability, HIV status, health, appearance, marital status or family circumstances which may interfere with the peace and comfort or cause offence to any other member of the household, any other Tenant, their household, visitors or neighbours, employees, agents or contractors of the Department or any other person.

Violent Behaviour

- 3.12.
- 3.12.1. Not to commit or allow members of the household to commit or threaten any act which will or is likely to prevent any person in occupation of the Property from continuing to live peaceably in the Property.
- 3.12.2. Not to behave, or allow members of the household to behave, or to threaten in a violent, abusive or offensive manner towards any other person on the Estate (whether resident or visiting) or on the Department's other properties or any employees, agents or contractors of the Department.

Noise

- 3.13. Not to play or use, or allow to be played or used, anywhere on the Estate any radio, television, or audio equipment or musical instrument or any other equipment so loudly or in such a way that it causes a nuisance or annoyance to other persons on the Estate or in the neighbourhood or so that it can be clearly heard outside the Property between 10.00 pm and 7.30 am.

Animals and Pest Control

- 3.14.
- 3.14.1. Not to keep or allow to be kept any animal at the Property (apart from small caged birds, fish or cats (other than in flats) in limited number) without first obtaining the consent of the Department in writing and

subject to any relevant import licence(s) and if the Department gives consent, the Tenant must make sure that:

- 3.14.1.1. the animal is kept under control and does not annoy or frighten other persons;
- 3.14.1.2. the animal does not foul Common Parts and any faeces are disposed of hygienically; and
- 3.14.1.3. the Tenant must keep due control of the animal and ensure that any noise is not excessive and will not allow the animal to wander from the Property unaccompanied.
- 3.14.2. Not to feed seagulls, feral pigeons or other vermin or stray animals on the Property or in the vicinity.
- 3.14.3. To remove all pests such as rats, mice or fleas from the Property and to keep the Property free of pests.

Looking after the Property

- 3.15. To keep the Property in a good and clean condition and in particular to be responsible for:
 - 3.15.1. Decorating all internal parts of the Property as frequently as is necessary to keep them in good decorative order.
 - 3.15.2. Replacing damaged door handles, knockers, letterboxes and gate catches.
 - 3.15.3. Replacing tap washers, plugs and chains in baths and sinks as necessary.
 - 3.15.4. Replacing broken toilet seats and lids.
 - 3.15.5. Replacing broken windows and glass.
 - 3.15.6. Replacing damaged floor and wall tiles.
 - 3.15.7. Replacing kitchen cupboards and drawers and any fitted furniture.
 - 3.15.8. Supplying fire baskets (if appropriate) where no back boiler is fitted.
 - 3.15.9. Regularly testing fire alarms (where fitted) and reporting faults to the Department immediately.

- 3.15.10. Carrying out annual service checks by an appropriately qualified person of any gas appliances owned by the Tenant.

Drains

- 3.16. To ensure that drains, grilles and waste pipes are not blocked by disposal of unsuitable or excessive amounts of waste matter and will ensure that waste pipes are regularly flushed.

Fuses and Light Bulbs

- 3.17. To replace fuses, light bulbs and fluorescent tubes and starters and to reset trip-switches and pay for the cost of contractors replacing fuses, resetting trip-switches and repairs to electrical circuits by the Tenant's failure to do so or faulty appliances.

Damage and misuse

3.18.

- 3.18.1. To make good any damage to the Property or to the Estate caused by the Tenant or any member of the household or any visitor to the Property, fair wear and tear excepted, and to pay any costs incurred by the Department rectifying any damage.
- 3.18.2. The Department can recover from the Tenant any expenditure incurred as a result of the Tenant's neglect, default or carelessness, including the cost of reinstatement works, clearing any blockage to drains or waste-pipes (including wc's, sinks, basins, showers, and baths) which has arisen through misuse by the Tenant or any member of the household or visitors to the Property.

Reporting Disrepair

3.19.

- 3.19.1. To report to the Department immediately any disrepair or defect for which the Department is responsible.
- 3.19.2. If the Tenant reports a "same day" emergency to the Department, the Tenant must remain in the Property unless he has informed the Department's Maintenance Section of any periods during the day when the Tenant will be absent. Failure to comply with this provision will result in the Tenant being charged for the call-out at the "same day" emergency rate, and the cost of any damage caused by entry to carry out the emergency repair if the Department has to force an entry,

is payable by the Tenant to the Department within seven days of written demand.

- 3.19.3. Tenants are also required to keep routine appointments with contractors arranged in advance and if a Tenant is unable to keep an appointment the Tenant must give the Department's Maintenance Section ample notice so that the contractor can be advised accordingly. Failure to do so will result in the Tenant being responsible for payment of the contractor's time.
- 3.19.4. If the disrepair/defect is found not to be the responsibility of the Department, the Tenant will be responsible for the cost of the call out and the repair.

Refuse

3.20.

- 3.20.1. Not to allow refuse or offensive matter to accumulate either inside or outside the Property or outbuildings or on any part of the Estate.
- 3.20.2. Refuse must not be thrown from windows, balconies or doors of the Property and must not be thrown or left on any neighbouring property or anywhere on the Estate other than at recognised collection points which shall be for collection only in suitable, secure containers and no earlier than on the evening immediately prior to collection and in accordance with any guidance issued by the Department or the Parish Constables or by using any rubbish chutes provided for usual domestic refuse in reasonable quantities.

Gardens and Outbuildings

3.21.

- 3.21.1. Not to erect, build or keep on the Property any shed or fowl house, or any building or structure without first obtaining the consent of the Department in writing.
- 3.21.2. To keep the garden in a neat and well cared for state of cultivation and all paths free from weeds, rubbish, discarded items, animal fouling and other noxious substances.

Hedges, shrubs and fencing

3.22.

- 3.22.1. To trim all shrubs and hedges on the Property so that they are well cared for and cultivated, and to restrict their height to a maximum of six feet (1.8 metres).
- 3.22.2. To cut hedges and shrubs so that they do not overhang the public roads or footpaths in accordance with the law.
- 3.22.3. Not to remove or destroy any trees, shrubs, walls, earth banks or fencing or to erect any new ones without first obtaining the consent of the Department in writing.
- 3.22.4. Not to plant any trees on the Property or the Estate without first obtaining the consent of the Department in writing.
- 3.22.5. Not to modify the Property to facilitate in-garden parking or vehicle access without first obtaining consent of the Department in writing.

Common Parts

- 3.23. To co-operate with the Department and other tenants in keeping the Estate clean, tidy and free from any form of rubbish or obstruction.

Insurance

3.24.

- 3.24.1. Not to do or allow to be done anything that may affect any insurance policy relating to the Property or any premiums payable for it.
- 3.24.2. The Tenant is responsible at his own cost to maintain adequate insurance of the Tenant's contents of the Property.

Access

3.25.

- 3.25.1. To allow the Department's employees, agents and contractors access at all reasonable hours of the daytime to inspect the Property where it has reasonable grounds to believe there has been a breach of the Tenancy or to inspect the condition of the Property or any adjoining property or to carry out repairs or other works to the Property or any adjoining property or carry out routine servicing of items or appliances for which the Department is responsible.

- 3.25.2. The Department will normally give at least 24 hours notice that it requires access but immediate access may be required in an emergency in which case the Tenant agrees that the Department may authorise its staff, contractors or agents to force entry to the Property.

Temporary Vacation of Property

- 3.26. If the Department believes it is necessary to carry out works to the Property or Estate which cannot reasonably be carried out whilst the Tenant remains in occupation of the Property, then:
 - 3.26.1. The Tenant shall vacate the Property for as long as is necessary for the works to be carried out and the Department will provide temporary accommodation to meet the reasonable needs of the Tenant's household.
 - 3.26.2. When the works are completed (as to the date of which the Department's decision shall be final) the Tenant shall vacate the temporary accommodation and reoccupy the Property.
 - 3.26.3. The Department will give the Tenant reasonable notice of the carrying out of any works other than in an emergency.

Alterations

- 3.27.
 - 3.27.1. Not to carry out or cause or allow to be carried out any alteration or addition to the structure of the Property either internally or externally or remove or modify any fixtures, fittings or property of the Department without first obtaining the consent of the Department in writing.
 - 3.27.2. Not to modify in any way any gas and plumbing systems and electrical circuits and not to overload such systems.
 - 3.27.3. Not to attach to any part of the Property or outbuilding any receiver, video camera, radio or television aerial or satellite dish or mast or any equipment of fixture or external lighting without first obtaining the consent of the Department in writing.
 - 3.27.4. Where the Department authorises the Tenant to make alterations, the Tenant is responsible for ensuring that the work is carried out to a good standard of workmanship and such works are kept in a good state of repair, and if the Tenant subsequently undoes the alterations, he is

responsible for putting the Property back into the condition that it was in before the alterations were carried out.

- 3.27.5. If the Tenant carries out any work of a sub-standard nature or without the written permission of the Department, the Department can require the Tenant to put the Property into the condition that it was in before the works were carried out at the Tenant's own cost.
- 3.27.6. If the Tenant fails or is unable to undertake reinstatement work required by 3.27.4 or 3.27.5, the Department may, at its sole discretion, arrange for the works to be carried out and charge the Tenant for such works.

Conversions

- 3.28. Not to convert or use or allow to be converted or used any part of the Property for other than its approved purpose.

Notices

- 3.29. Not to display any notice, which is visible from outside the Property, other than, election notices and notices relating to community events.

Occupancy level

- 3.30. Not to allow more than the number of persons permitted by this Tenancy to reside at the Property without first obtaining the consent of the Department in writing.

Lodgers, Guests & Sub-Letting

- 3.31. Not to take in any paying or non-paying person or lodger either within the Property or elsewhere on the Property without first obtaining the consent of the Department in writing and the Tenant shall provide the Department with details of all persons currently or previously living at the Property during the period of the Tenancy when requested to do so by the Department.

Relatives and Friends on Holiday

- 3.32. The Tenant may without the express consent of the Department accommodate relatives and friends who are visiting Guernsey on holiday and who are not in employment in Guernsey, so long as the period of accommodation does not exceed 3 weeks for any one guest and the accommodation is not provided on a commercial basis, but the Department can withdraw this ability at any time if accommodation of a guest results in a breach of condition of this Tenancy.

Weapons and Guns

- 3.33. Not to keep offensive or projectile firing weapons (including firearms, crossbows, ball bearing guns or air guns), or ammunition for any such weapon at the Property without first obtaining the consent of the Department in writing and without the relevant shotgun/firearms certificates.

Dangerous and Inflammable Substances

- 3.34. Not to keep or use or store
- 3.34.1. In any flat or maisonette paraffin, liquid or bottled gas.
 - 3.34.2. In the Property or on the estate, any dangerous, offensive or inflammable substances, other than in limited quantities as may be required for domestic use and stored in disposable containers such as aerosols which comply with the current British Standard for disposable cylinders and which have a maximum capacity of one litre, or in the tank of a motor vehicle properly parked in accordance with this Tenancy.

Parking and Vehicle repairs

- 3.35.
- 3.35.1. Not to park any motor vehicle on the Property or the Estate other than a car, motorbike or other similar sized vehicle.
 - 3.35.2. Not to park a caravan, boat trailer or goods vehicle on the Property or the Estate without first obtaining the consent of the Department in writing.
 - 3.35.3. To park vehicles only in proper parking bays, parking spaces, car parks, estate roads where parking is permitted, and garages.
 - 3.35.4. Not to park on any forecourt, including Estate entrances or garage areas, grassed areas, areas marked with yellow lines and/or boxes, or park in a way that might cause an obstruction, and if there is a local parking scheme in force, the Tenant must keep to the rules of that scheme.
 - 3.35.5. Not to park any vehicle which is untaxed, uninsured or is not roadworthy on the Property (other than in an garage) or on the Estate.
 - 3.35.6. The Department can remove, keep and dispose of any vehicle not parked in accordance with these provisions, and can recover the costs of removal storage and disposal from the Tenant.

- 3.35.7. Not to carry out repairs (including engine changes, body part replacements and paint spraying) other than routine maintenance to any vehicle on the Property or the Estate, but the Tenant may carry out routine maintenance (such as changing of tyres, plugs and oil) providing that this does not cause a hazard or nuisance or annoyance to other persons and when changing oil the Tenant must ensure that it does not foul roadways or paths.
- 3.35.8. Not to pour oil, petrol or any other chemicals down drains or gullies.
- 3.35.9. To be responsible for the cost of putting right any damage caused to the Property or the Estate, as a result of vehicle repairs and maintenance that the Tenant or any member of the household or visitors to the Property have carried out.

Moving out

3.36. At the end of the Tenancy:

- 3.36.1. To give the Department vacant possession of the Property and to leave the Property and to return all keys to the Property and parking permits to the Department.
- 3.36.2. To remove all the Tenant's furniture and possessions, and all rubbish.
- 3.36.3. To leave the Property and any replacement fixtures and fittings provided by the Tenant in good order and clean.
- 3.36.4. To leave the garden (if any) in a clean tidy and properly cultivated condition.
- 3.36.5. If the Tenant fails to leave the Property in good order and clean, the Tenant must meet the cost of any special cleaning or repairs carried out by the Department including the cost of replacement locks where the keys are not returned on time.
- 3.36.6. The Department accepts no responsibility for anything left at the Property by the Tenant at the end of the Tenancy. Where the Tenant fails to remove his possessions from the Property within seven days of the end of the Tenancy, the Department shall be entitled to sell or dispose of them as it sees fit. Where the Department sells all or part of such possessions it will deduct the reasonable costs of sale from the proceeds and will account to the Tenant for the balance.
- 3.36.7. If the Tenant does not collect the balance of the sale proceeds within six weeks of the Department notifying the Tenant in writing of the

sale, or if the Department cannot after reasonable efforts find the Tenant, the Department may apply the balance in furtherance of its housing objectives.

- 3.36.8. If any case where the Tenant owes any monies to the Department the balance of the sale proceeds may immediately be applied by the Department to reduce or extinguish the debt.
- 3.36.9. If the Tenant fails to clear all possessions from the Property at the end of the Tenancy, the Tenant will pay to the Department a sum equivalent to the Rent by way of damages for loss of income until such time as the Property has been cleared.

Breaches by any occupant or visitor

- 3.37. Not to permit or allow any occupant of or visitor to the Property to breach the terms of this Tenancy.

[Signed by the Tenant]
 [Signed on behalf of the Department.....]

APPENDIX 2 – FRAMEWORK OF POLICIES AND PROCEDURES BEING DEVELOPED ON STATES' HOUSE TENANCY AND RELATED MATTERS.

Abandonment, Surrender or Ending a Tenancy.

Access to Properties.

Alterations to Properties, including Medical Adaptations and Disabled Access, and Close Circuit Television systems.

Allocation of Properties, including Eligibility Criteria and Points System.

Animals and Pets.

Decanting Tenants, including Emergencies and Temporary Accommodation whilst work is carried out on Properties.

Eviction/Re-possession of Properties.

Gardens, including Fences and Outbuildings.

Joint Tenancies.

Lodgers and Guests in Properties.

Looking after the Premises, including Tenants' responsibilities and Landlords' obligations.

Nuisance, including Harassment, Anti-social Behaviour and Noise.

Rent, including Changes, Payments, Rebates and Arrears Management.

Reviews of Tenancies.

Rights of Succession of Tenancies.

Squatters.

Transfers and Exchanges of Properties.

Use of Premises, including Business Operations and Prohibition on Criminal, Immoral and Illegal purposes.

Vehicles, including Abandonment, Parking and Repairs.

Violent, Abusive or Offensive Behaviour.

Notes:

1. When finalised the Policies and Procedures will be published and made easily accessible to Tenants and prospective Tenants.
2. The Policies and Procedures will be subject to review by the Housing Department on an on-going basis.

January 2005

APPENDIX 3 - HOUSING APPEALS TRIBUNAL – RECOMMENDED APPOINTEES TO THE PANEL

1) Chairman

Mr J Allez (64)

A retired Civil Servant, whose career culminated with his 12 years of service as Chief Officer to the Customs and Immigration Department. During this time, Mr Allez chaired the Chief Officers' Drug Strategy Group.

2) Deputy Chairman

Rev. L Le Vasseur (56)

Following a career of about 30 years in teaching, the Reverend Mrs Le Vasseur was ordained some 10 years ago and is now the Assistant Priest at the Forest and St Saviour's Parish Churches. Reverend Mrs Le Vasseur was formerly Chair of Maison St. Pierre and is Chaplain to the King Edward VII Hospital.

3) Members

a) Mrs B Amy (58)

A former Douzenier, Procureur of the Poor and Member of the Outdoor Assistance Board of the Vale Parish, Mrs Amy is on the Social Insurance Appeals Tribunal Panel and was a member of the States Tenancy Independent Review Tribunal. Mrs Amy is a head-teacher who will be retiring in about 18 months time.

b) Mrs B Bartie (60)

A retired Civil Servant, who was formerly Chief Officer of the Cadastre Committee, Mrs Bartie is an Adjudicator in Unfair Dismissal cases. As a former President of the Association of Guernsey Civil Servants, Mrs Bartie has previously served as an Employee Representative in disciplinary cases and on an Industrial Disputes Tribunal Panel.

c) Mr R Bruce (65)

Mr Bruce was employed as the Guernsey Social Security Authority's Supplementary Benefit Manager, prior to retirement from the Civil Service four years ago. On occasions, he undertook the presentation of cases to an Appeals Tribunal.

d) **Mrs J Dyke (56)**

Mrs Dyke is the joint owner of a horticultural operation, which is being scaled down in the lead-up to retirement. She is a former member of the Guernsey Growers' Association Committee.

e) **Mr J S Guilbert (64)**

After 25 years service, Mr Guilbert retired as the TGWU's local Union Official and he served for 20 years as a member of the Guernsey Social Security Authority. Mr Guilbert is chair of the Public Assistance and Sunday Trading Appeals Tribunal Panels, and was a member of the States Tenancy Independent Review Tribunal.

f) **Mrs Patricia Holland (57)**

Mrs Holland has had a career in childcare and is currently a Registered Childminder, as well as Chairman of the Guernsey Council of Churches. She is actively involved with the Friends of Romania and also works as a volunteer Contact Leader and Intermediary for NORCAP, the UK based charity supporting adults affected by adoption.

g) **Mrs A Hood (58)**

Mrs Hood recently retired from the local Finance industry, where she held senior positions with overall responsibilities for premises, administrative staff and personnel functions.

h) **Mrs V Kitts (60)**

A former Chair of the Radio Guernsey's BBC Local Advisory Council, Mrs Kitts currently serves as Secretary to the St. Sampson's Secondary School Committee. Mrs Kitts also carries out voluntary work for a number of organisations including the WRVS, the Inner Wheel and Les Bourgs Hospice.

i) **Mr R Reed (68)**

Having been full-time Director of the Chamber of Commerce for the past 10 years, Mr Reed is now performing the role on a part-time basis in support of his successor. He is a member of the Social Insurance Appeals Tribunal Panel.

j) **Mr M Roberts (61)**

Following a 30-year career in H.M. Forces, Mr Roberts returned to the island and was a member of the Civil Service for 10 years, prior to moving

to the private sector. Mr Roberts is a member of the Disciplinary Committee of the Guernsey Football Association and a former Treasurer of the Association of Guernsey Civil Servants.

k) **Mrs P Torode (61)**

Following a career of over 30 years in communications in Jersey, Mrs Torode moved to the island, where she is a freelance journalist. She has previously served as an Advisor with the Samaritans, and has undertaken other voluntary committee work.

l) **Very Reverend M Trickey (69)**

The former Rector of St Martin's Parish and the Dean of Guernsey, the Very Reverend Trickey has previously served on a number of States Committees and Charitable organisations. Other positions have included being a member of the States Tenancy Independent Review Tribunal and the Public Assistance Appeal Tribunal Panel (including 6 years as Chairman). The Very Reverend Trickey continues to hold a number of positions with charitable and voluntary organisations.

m) **Mr R Watts (59)**

Mr Watts is actively involved in a family farming business and is Vice-President of the RGAHS. He is a former President of the Guernsey Farmers' Association and founder Chairman of the Farming and Wildlife Advisory Group. For a number of years, Mr Watts served as a member of the Guernsey Tax Tribunal.

(NB The Policy Council supports the proposals)

(NB The Treasury and Resources Department has no comment on the proposals)

The States are asked to decide:-

II.- Whether, after consideration of the Report dated 27th January, 2005, of the Housing Department, they are of the opinion:-

1. To note that a new States Housing Tenancy Agreement, along the lines set out in Appendix 1 of that Report, shall come into effect from 7th May 2005.
2. (1) That all existing States' residential tenancies shall be terminated with effect from midnight, 6th May 2005.
 (2) To approve the draft Ordinance entitled "The States Housing (Termination of Tenancies) (Guernsey) Ordinance, 2005", and to direct that the same shall have effect as an Ordinance of the States.
3. To note that the Housing Department will shortly be publishing and implementing new policies and procedures dealing with tenancy and related matters (including the eligibility criteria and points system), as set out in Appendix 2 of that Report.
4. That, to make best use of the States housing stock, States' Housing tenancies shall be subject to review by the Housing Department at any time, such reviews to be undertaken as described in paragraphs 17 - 26 of that Report.
5. To note that a Housing Appeals Tribunal will be established to consider appeals from people who are aggrieved by decisions of the Housing Department on tenancy and related matters, as set out in paragraphs 27 - 28 of that Report.
6. To appoint the persons listed in Appendix 3 to that Report to the Housing Appeals Panel and to appoint, as Chairman and Deputy Chairman of the Panel, the persons respectively designated to those offices in Appendix 3.
7. That the Housing Appeals Tribunal be constituted as set out in paragraphs 29 - 30 of that Report.
8. That the States Tenancies Independent Review Tribunal shall be disbanded and that Resolutions 1 and 2 of article XXII on Billet d'Etat XVII of 1992 be rescinded.

HOUSING DEPARTMENT

THE HOUSING (CONTROL OF OCCUPATION) (GUERNSEY) LAW, 1994

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

17th January 2005

Dear Sir

Executive Summary

The Housing (Control of Occupation) (Guernsey) Law, 1994 came into force on 1 July 1994 and was extended by Ordinance for a period of one year on 30 June 2004: it is now due to expire on 30 June 2005.

The purposes of this report are to seek States approval for the following:

- (a) the extension of the Law for a further two years – i.e. until 30 June 2007;
- (b) the preparation of an Order in Council:
 - i. to enable appeal cases to be heard in the Ordinary Court in place of the Full Royal Court;
 - ii. to decline to consider a fresh application within 12 months following rejection of a previous application or, as the case may be, the institution or dismissal of an appeal against such a rejection, unless there has been a material change to the applicant's circumstances;

Review of Housing Control Law in relation to Local Market dwellings.

The Housing Department is in the process of undertaking a full review of the provisions of the Housing Control Law, with particular reference to the occupation of local market dwellings. However, during the 2003 Policy Planning debate an undertaking was given by the President of the Housing Authority that the issue of criminal convictions checks would be dealt with first as a separate matter.

Subsequently, a staff-level working party comprising representatives from the Housing Department, Customs & Immigration, the Police, and the Policy and Research Unit was

established under the chairmanship of HM Procureur in order to investigate this matter. This working party has met on several occasions and undertaken widespread research, but, at the time of writing, is not in a position to report its findings.

In addition, upon the advice of HM Procureur, the Housing Department has decided to take comprehensive advice from leading Counsel specialising in human rights law on all aspects of the Law. His Opinion is in the process of being finalised and the Department wishes to have the full benefit of his views before concluding its review of the Law.

Owing to the above, the Department will not be in a position to implement a new Housing Control Law to come into force in July 2005. Therefore the Department proposes that the States agree to the preparation of an Ordinance to enable the Housing (Control of Occupation) (Guernsey) Laws, 1994 to 2001 to remain in force for a further period of two years, i.e. until 30 June 2007.

This will enable the Department to report to the States with recommendations on the checking of criminal convictions as part of the Housing Control regime and also to complete its review of the Law with the benefit of additional expert legal advice.

A further unintended benefit of the delay will be the opportunity to consider the relationship between the new Housing Control Law and the new States population objective, which is currently being developed.

The Department very much regrets this delay in reporting to the States, but believes that it is essential that before the new Housing Control regime is put in place, the fundamentals of the Law are thoroughly reviewed in light of the most up-to-date legal advice to ensure its robustness.

There are, however, two matters in the Law that the Department considers should be addressed ahead of its full review and these are set out below.

Provisions of the law in relation to appeals.

Section 56 of the Housing (Control of Occupation) (Guernsey) Laws, 1994 to 2001, contains provisions concerning the appeals procedure to the Royal Court as follows:

- “(1) Subject to the provision of sections 13, 16, 43 and 48, a person aggrieved by any decision of the Department under any provision of this Law may appeal therefrom to the Royal Court on the grounds that the decision was ultra vires or was an unreasonable exercise of the Department’s powers.
- (2) An appeal under this section shall be instituted by way of summons which shall set out the material facts upon which the appellant relies and which shall be served upon the Minister of the Department within a period of two months immediately following the date of the notice giving the decision of the Department.

- (3) On an appeal under this section the appellant shall have the burden of proof and the final right of reply.
- (4) An appeal on a question of law shall lie to the Court of Appeal from any decision of the Royal Court under this section within such period and in such manner as may be prescribed by Order of the Royal Court.”

For these purposes, the Royal Court is the Full Court, which requires at least seven Jurats to sit. (The other sections mentioned in subsection (1) already provide for certain decisions under the 1994 Law to be challenged before the Ordinary Court, where the requirement is only for at least two Jurats to sit.) However, owing to the high volume of criminal cases being heard in the Royal Court there is often a lack of court time to hear administrative appeal cases, which can mean that such cases can lie dormant for a significant amount of time, during which the appellant continues to build up residence and connections with the Island that potentially strengthens their case in any future applications.

In addition, at any time during this ‘waiting’ period, the appellant may submit a new, revised application for a housing licence, which the Department is obliged to consider, even though there may have been no material change to the appellant’s situation, other than that he or she has by then resided in Guernsey for a longer period (which can sometimes prove a significant factor). Furthermore, if the latter application is unsuccessful the appeals process will recommence.

This is unsatisfactory from the point of view of both the appellant, who is often left in “limbo” for a prolonged period, and the Department, which finds itself having to devote resources to requests for reconsiderations of decisions that are already the subject of appeal. There are also resource implications for the Law Officers of the Crown in defending and advising on such repeated applications.

In light of the above, the Department considers that it would be preferable to amend the current Housing Control Law to enable all appeal cases to be heard by the Ordinary Court, as it understands that this would shorten the waiting time and enable cases to be dealt with more expeditiously.

New applications after rejection or dismissal of appeal.

There is no provision in the current Housing Control Law governing the frequency or content of new applications for housing licences after rejection of an application, or notification or dismissal of an appeal. This can lead to a potentially endless series of new applications, which may not display any evidence of material change since the original application. For example, a person may submit an application and this may be rejected. As a result, the applicant may lodge an appeal which will initiate the appeals procedure. Owing to reasons outlined above, the process of appeal may last for a prolonged period of time. In the event of dismissal of appeal the Law permits the appellant immediately to submit another application, which may be substantially the

same as the original. The Department is obliged to consider this new application, despite its similarity to the original application, and the whole process will begin anew.

Similarly, the Department is obliged to consider every new application that is made, even if the applicant has already commenced appeal proceedings on a previous application. As noted above, this can be used as a means of lengthening the applicant's period of residence and strengthening their connections with the Island, prior to the matter coming to court.

Consequently, the Department proposes that the Housing Control Law is amended to provide conditions under which the Department may refuse to consider an application for a housing licence.

The Department considers that it should be able to refuse to consider an application within a period of twelve months ending with the date on which:

- (a) a previous application has been rejected by the Department; or
- (b) appeal proceedings in relation to that rejection have commenced; or
- (c) an appeal against the refusal of a licence has been dismissed; and
- (d) in the opinion of the Department, there has been no significant change in any material circumstances since that refusal, or institution or dismissal of appeals proceedings.

In this way, the Department would not be obliged to consider applications where there has been no material change to the applicant's circumstances, which would considerably reduce unnecessary administration, particularly if the proposal to move appeals to the Ordinary Court is also approved.

Recommendations

Accordingly, the Housing Department recommends the States to agree to:

- (a) the preparation of an Ordinance to enable the Housing (Control of Occupation) (Guernsey) Laws, 1994 to 2001 to remain in force for a further period of two years, i.e. until 30 June 2007;
- (b) the Housing (Control of Occupation) (Guernsey) Laws, 1994 to 2001 being amended along the lines set out in this Report;

Yours faithfully

D Jones
Minister

(NB The Policy Council supports the proposals)

(NB The Treasury and Resources Department has no comment on the proposals)

The States are asked to decide:-

III.- Whether, after consideration of the Report dated 17th January, 2005, of the Housing Department, they are of the opinion:-

1. That the Housing (Control of Occupation) (Guernsey) Laws, 1994 to 2001 shall remain in force for a further period of two years, i.e. until 30 June 2007
2. That the Housing (Control of Occupation) (Guernsey) Laws, 1994 to 2001 shall be amended along the lines set out in that Report.
3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

SOCIAL SECURITY DEPARTMENT

MEDICAL BENEFIT PAYABLE AT THE PRINCESS ELIZABETH HOSPITAL AND THE MIGNOT MEMORIAL HOSPITAL

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

20th January 2005

Dear Sir

Executive Summary

1. This report recommends that the £12 medical benefit grant should be allowed to be paid towards the cost of attendances at the Accident and Emergency Department of the Princess Elizabeth Hospital and the Casualty Department of the Mignot Memorial Hospital. This will add approximately £190,000 per annum to the expenditure of the Health Service Fund, but relieve patients or their health insurers or Friendly Societies of the same amount.

Medical Benefits

2. On 15 December 1988, the States considered a report by the States Insurance Authority (Billet d'Etat XXVII, 1988) which led to the introduction of medical benefit in 1991 under the Health Service (Benefit) (Guernsey) Law, 1990. From 1 January 1991 medical benefit grants have been paid towards the cost of medical consultations with approved doctors or approved nurses.
3. Medical grants have been paid for consultations on the premises of the medical practices and for home visits by doctors, but there has been a general exclusion of consultations undertaken at the Princess Elizabeth Hospital and the Mignot Memorial Hospital. The exclusions are given effect by Ordinance of the States.
4. This particular exclusion of the Accident and Emergency Department from the consultation grants was applied at the request of the British Medical Association (Guernsey and Alderney Division) and the Board of Health as a disincentive to non-essential use of the Accident and Emergency Department. The position has now changed and a request has been made by the Chairman of the Primary Care Committee to allow the grant to be paid in respect of attendances at A&E.

5. A Primary Care Centre was established at the Princess Elizabeth Hospital in 1999, adjacent to the Accident and Emergency Department, to provide a preferred out-of-hours location for medical consultations and to further reduce the need for home visits by the doctors. An amendment to the Ordinance in 1999 allowed medical grants to be claimed at this Primary Care Centre.
6. The Department is advised that it would assist the manning of both the Primary Care Centre and the Accident and Emergency Department if the distinction between the two neighbouring locations, in terms of the medical benefit payable, was removed and the benefit were able to be claimed for patients seeing a doctor at the Accident and Emergency Department. Clearly, there would also be financial benefit to the patients visiting the Accident and Emergency Department, whose medical bills would be reduced by £12, at the expense of the Health Service Fund.
7. If medical benefit is allowed to be claimed at the Accident and Emergency Department in Guernsey, to the benefit of patients, it is only fair that the same should apply to the Casualty Department at the Mignot Memorial Hospital, Alderney.
8. The Health and Social Services Department supports these proposed changes.
9. It is therefore proposed that the Health Service (Benefit) Ordinance, 1990 be amended so that medical benefit is payable for consultations with a doctor at the Accident and Emergency Department of the Princess Elizabeth Hospital and in the Casualty Department of the Mignot Memorial Hospital. Grants would not be payable for consultations with a doctor employed by the Medical Specialist Group or the Health and Social Services Department. This is because patients covered for treatment under the Medical Specialist Group contract with the States would be receiving such treatment free of direct charge.
10. The medical benefit grant for a doctor consultation is currently £12, which would be taken off the patient's account. The medical practices currently charge between £37.35 and £112.00 for a consultation at A&E, depending on the time of day.
11. Figures provided by the Health and Social Services Department indicate that there were approximately 15,800 attendances at the Accident and Emergency Department in 2004. The additional cost to the Guernsey Health Service Fund of providing a £12 grant towards these consultations is, therefore, estimated at £190,000 per annum. While this is a significant sum it can be accommodated within the current operating surplus on the Guernsey Health Service Fund. Furthermore, it should be noted that this is not additional healthcare expenditure in global terms, but a shift in the costs from patients' own resources, or that of their insurer of Friendly Society, to the Health Service Fund.

Recommendation

12. The Department recommends that medical benefit should be payable in respect of consultations with a doctor at the Accident and Emergency Department of the Princess Elizabeth Hospital, Guernsey and at the Casualty Department of the Mignot Memorial Hospital, Alderney.
13. I should be grateful if you would lay this matter before the States with appropriate propositions including one directing the preparation of the necessary legislation.

Yours faithfully

Mary Lowe
Minister

(NB The Policy Council supports the proposals)

(NB The Treasury and Resources Department support the proposals)

The States are asked to decide:-

IV.- Whether, after consideration of the Report dated 20th January, 2005, of the Social Security Department, they are of the opinion:-

1. That medical benefit shall be payable in respect of consultations with a doctor at the Accident and Emergency Department of the Princess Elizabeth Hospital, Guernsey and at the Casualty Department of the Mignot Memorial Hospital, Alderney.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HEALTH AND SOCIAL SERVICES DEPARTMENT

**PROTECTING THE HEALTH OF WORKERS AND THE PUBLIC
AGAINST ENVIRONMENTAL TOBACCO SMOKE**

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

20th January 2005

Dear Sir

I am pleased to enclose a copy of the Health and Social Services Department's report entitled '*Protecting the health of workers and the public against environmental tobacco smoke*'.

I should be grateful if you would lay this matter before the States with appropriate propositions, including one directing the preparation of the necessary legislation.

Yours faithfully

P J Roffey
Minister

PROTECTING THE HEALTH OF WORKERS AND THE PUBLIC AGAINST ENVIRONMENTAL TOBACCO SMOKE

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PROTECTING THE HEALTH OF WORKERS AND THE PUBLIC AGAINST ENVIRONMENTAL TOBACCO SMOKE (ETS)

Executive Summary

- Although tobacco has been known and used in Europe for over four hundred years, the epidemic of heart attacks, lung cancer and other tobacco related illness only became apparent following widespread cigarette smoking by both men and women after the First World War (paras 22-36).
- Most smokers and the tobacco industry itself now readily accept that smoking causes real harm to the health of smokers. However, more recent evidence now confirms that environmental tobacco smoke (ETS) is four times as harmful as directly inhaled smoke and can, therefore, cause disproportionate harm to the health of those exposed to it. (paras 45-50)
- Recent research also confirms that *'smoking is the number one health and safety hazard in British workplaces'*. Evidence presented to the Royal College of Physicians estimates that 700 premature deaths a year may be attributable to inhaling secondhand smoke at work – three times the number of people killed in all other industrial accidents (paras 51-61).
- This new scientific evidence has led an increasing number of jurisdictions to enact or agree to enact a complete ban on smoking in all enclosed public spaces as a means of protecting the health of those exposed to ETS. Such jurisdictions include Ireland, Norway, New Zealand, Scotland, all States of Australia, as well as California, New York, Massachusetts, Vancouver and many other North American cities and States.
- 'Approved codes of practice' have been rejected as offering too little real protection, whilst ventilation systems have been shown to be largely ineffective and impossible to police. Partial bans still leave many workers exposed to the real dangers of ETS.
- Having reviewed the indisputable evidence of the harmful effects of ETS, the need to offer equal protection to all workers, the relative ease of implementation of a complete ban in countries like Norway and Ireland, and difficulties of enforcement predicted by the compromise preferred in England, the Department believes that the only logical and enforceable position is one of a complete ban on smoking in enclosed public places, along the lines agreed by the Irish Dáil and Scottish Parliament.
- The Department believes such a ban is eventually inevitable. Guernsey therefore has the choice between legislating for a complete ban now and remaining along with Ireland and Scotland as one of the acknowledged leaders in necessary tobacco control in Europe, or eventually being forced to make such changes as a consequence of a legal ruling. The option of a ban only in 'public eating places' is given, but would be a 'second best' alternative.

HEALTH AND SOCIAL SERVICES DEPARTMENT

PROTECTING THE HEALTH OF WORKERS AND THE PUBLIC AGAINST ENVIRONMENTAL TOBACCO SMOKE

Previous Consideration by the States

1. Following debate on the policy letter entitled '*Substance Misuse in Guernsey – Reducing Dependence upon Drugs, Tobacco, Alcohol and other Substances*' (Billet d'État XIV 1993), the States directed that the '*Smoking [Prohibited Buildings and Vehicles] Ordinance*' 1971 be amended;
 - a. To provide for a total ban on smoking in all public transport vehicles, and
 - b. To require designated no smoking areas to be provided in all public eating places.
2. The (former) States Traffic Committee subsequently confirmed that they intended to bring forward the necessary legislation to effect the first part of the States Resolution as part of their overall review of traffic legislation in Guernsey.
3. Following a further comprehensive report focusing on tobacco control entitled '*The Impact of Advertising and Duty on Alcohol and Tobacco Consumption in Guernsey*' (Billet d'État XII 1996), the States agreed a broad package of measures designed to
 - reduce tobacco consumption by restrictions on supply and through encouraging reduction in demand;
 - ensure smoking became less desirable, less accessible and less affordable for young people before they became addicted to tobacco;
 - help and support addicted adult smokers who wished to quit.

This package of co-ordinated tobacco control measures was regarded as one of the most progressive in Europe at this time.

4. However, because of legal difficulties in defining what constituted a '*public eating place*', it was not possible to bring forward proposals to effect the second part of the 1993 States Resolution as part of the 1996 policy letter.
5. However, in a subsequent policy letter '*Tobacco Control in Guernsey*' (Billet d'État VI 2002) the then States Board of Health reported substantial progress on tobacco control as a consequence of the above measures and additionally proposed a total ban on smoking in all public eating places.

- 6 The Board explained that, in order to give effect to the 1993 States Resolution, it had originally intended to present to the States proposals obliging proprietors of public eating places to ensure only a *proportion* of the dining area was set aside for non smokers. However, when attempting to draw up workable guidelines, the Board had found there were a number of definitional problems.
- 7 Having received detailed advice from the Law Officers, the Board recognised that the proposal to have just a proportion of each dining area '*smokefree*' would be unworkable in practice, and that overcoming this would be insurmountable. The Board, however, had been advised that it would be possible to draft working legislation banning smoking in public eating places.
- 8 The Board proposed that, for the purposes of the legislation, a '*public eating place*' would mean any restaurant, café, snack bar, tea shop or canteen. The Board had considered including all bars, public houses and hotels within the definition of '*public eating place*' on the basis that meals were frequently sold for consumption on such premises. However, the primary purpose of such premises (unlike restaurants, etc) was not the serving of meals, in most cases the area used for serving meals was one which was also used by non-dining drinkers as well.
- 9 In the event, an amendment from Deputy Mary Lowe was agreed by the States, requiring instead that public eating places should display a notice indicating whether smoking on the premises was:
 - a. permitted throughout, or
 - b. prohibited throughout, or
 - c. permitted and prohibited, each in separate areas.

An informal survey suggests that, due perhaps to uncertainty as to the exact legal requirements (e.g. size of notice, position of display, etc) the law has been unevenly implemented, is not actively being enforced and is failing in its intent of ensuring clear guidance for would be diners.

- 10 In the normal course of events, the Health and Social Services Department, as successor to the Board of Health, would have brought a further report to the States in 2006/2007, summarising continuing progress in the control of tobacco and tobacco related disease, and seeking ongoing States support for continuing and extending such activities.
- 11 However, compelling new scientific evidence has led an increasing number of jurisdictions to enact or agree to enact a complete ban on smoking in all public enclosed spaces as a means of protecting the health of those exposed to environmental tobacco smoke. Workers in the hospitality industry are

particularly at risk in this respect, in that they may be exposed to ‘other people’s smoke’ for eight or more hours a day as a normal part of their duties. Such jurisdictions now include Ireland, Norway, New Zealand, Scotland and all States of Australia, as well as California, New York, Massachusetts, Vancouver and many other North American cities and States.

- 12 The Health and Social Services Department circulated a summary of this new evidence to all States Members asking if they would wish an earlier debate on the subject. Twenty nine of those Deputies who replied welcomed such debate.
- 13 This report seeks to summarise the scientific case on the dangers of environmental tobacco smoke, the experience of other jurisdictions who have embraced such a ban on smoking in all enclosed public spaces and the economic benefits of such an approach.

The ‘rights’ of smokers and non-smokers

- 14 Tobacco has been cultivated and smoked in the Americas for at least the last two to three millennia. Following its introduction into Europe in the fifteenth century, the ‘rights’ of smokers to smoke in public to the discomfort of non smokers has been hotly and repeatedly debated.

- 15 Some of the social and health consequences of smoking were realised early. In his famous ‘*Counterblaste to Tobacco*’, (1604) King James VI of Scotland and I of England described smoking as;

‘A custome lothsome to the eye, hateful to the nose, harmefull to the braine, dangerous to the lungs, and the blacke stinking fume thereof, neerest resembling the horrible Stygian smoke of the pit that is bottomlesse.’

- 16 King James also commented on the adverse effects of smoking on the ability of others to enjoy their food:

‘Is it not both great vanitie and uncleanness, that at the table, a place of respect, of cleanlinesse, of modestie, men should not be ashamed to sit tossing of Tobacco pipes, and puffing of the smoke of Tobacco one to another, making the filthie smoke and stinke thereof, to exhale athwart the dishes and infect the air, when, very often, men that abhorre it are at their repast?’

- 17 Additionally, the King was aware of the health risks and likely *post mortem* findings amongst workers exposed to environmental tobacco smoke when he wrote

‘Surely Smoke becomes a kitchen far better than a Dining chamber, and yet it makes a kitchen also oftentimes in the inward parts of men, soiling and infecting them, with an unctuous and oily kind of Soote, as hath bene found in some great Tobacco takers, that after death were opened.’

- 18 In the four hundred years since then, custom and accepted behaviour has swung between the 'rights' of smokers to smoke where they fancy, and the 'rights' of non smokers to be breathe unpolluted air.
- 19 In Victorian times, it was the accepted custom for women to withdraw after dinner, so the men could enjoy their cigars. With the coming of the railways, smoking and non smoking carriages (and waiting rooms) were also the norm. With the 'movies' came smoking (downstairs) and 'non-smoking' (perversely upstairs) sections of the cinema.
- 20 However, with our growing knowledge of the harmful effects of tobacco, particularly dating to the seminal work of Sir Richard Doll and Sir Austin Bradford Hill in 1950, the trend has been towards increasing restrictions on smoking in public places. Smoke free public transport (including airlines), public buildings (including post offices, government offices, theatres and cinemas) and smokefree worksites are now generally the norm.
- 21 In each case, the 'rights' (indeed the 'needs') of smokers to enjoy a cigarette '*on a long journey*', '*at my 'own' desk*', '*while relaxing at the cinema*' were regarded as sacrosanct, and dire consequences were predicted if they were restricted. In retrospect, such restrictions seem no more than commonsense measures to protect the health and amenity of others. The exception remains the 'hospitality' industry, particularly hotels and bars and, to a lesser degree, restaurants and other eating places.

How harmful is tobacco smoke?

- 22 Up until the time of the Crimean War (1853-1856), tobacco had been generally smoked in pipes or cigars, or taken in the form of snuff. Cigarettes were made fashionable in Britain by officers returning from the Crimea, and by the end of the nineteenth century they had begun to replace cigars.
- 23 This rise in popularity was aided by two new processes. The first was that of 'flue curing' introduced in North Carolina and Virginia in the 1860's. This exposes the tobacco leaf to high temperatures, increases its sugar content, causing the smoke to become less alkaline, which makes it less irritating to the respiratory tract and easier to inhale.
- 24 The second development was mechanical, namely the introduction of cigarette making machines. One such, patented in 1880, was eventually adapted by the Duke family to work so efficiently that 120,000 cigarettes of good quality could be produced every 10 hours – the equivalent of the production outlay of about 100 skilled workers. As a result, the price fell and a mass market became feasible.
- 25 Pipe and cigar tobacco tends to burn at temperatures of 750⁰ to 900⁰C, uses

- fewer chemicals during cultivation and manufacture, and because of its high alkaline content, is rarely inhaled. Instead nicotine is absorbed through the oral mucosa where it may have a locally irritant effect, leading to an increase in cancers of the lip, mouth, pharynx and larynx.
- 26 In contrast, tobacco grown and processed for cigarette manufacture burns at a far higher temperature ($>800^{\circ}$ - $1,000^{\circ}$ C) and as a result of chemical interactions at these high combustion temperatures, more than 4,000 chemical compounds have been identified in processed tobacco smoke. These include the original tobacco constituents, as well as chemicals applied during cultivation, harvesting and processing. Major classes of compounds identified in tobacco smoke include carbon monoxide, hydrocarbons, ammonia, aldehydes, ketones, phenols, alkaloids, heavy metals, arsenic and strychnine. This 'cocktail of chemicals' may explain the wide range of cancers and other diseases now known to be related to smoking.
 - 27 Cigarette smoking increased rapidly amongst men during the First World War and, as a result of social changes and cheaper prices, assisted no doubt by its portrayal as being glamorous and sophisticated in the new 'movies', was being taken up by an increasing number of women in Britain and the US during the interwar years.
 - 28 This switch to mass consumption of cigarettes was crucial in fuelling the subsequent epidemic of tobacco related diseases. Doctors began to see a rapid increase in previously rare diseases. Coronary thrombosis ('heart attack') was first described at autopsy in 1876 but not diagnosed in life until 1912. By 1990, heart attacks and other forms of ischaemic heart disease were responsible for 83,000 male and around 68,000 female deaths in England and Wales.
 - 29 Cancer of the lung had also been exceptionally rare. A small cluster of cases had been described in tobacco workers in 1898, when it was suggested that it might be caused by the inhalation of tobacco dust, and it was only potentially linked with smoking in 1912. It was not until 1950 that Doll and Bradford Hill were able to conclude that '*cigarette smoking is a factor, and an important factor in the production of carcinoma of the lung.*' By 1990, carcinoma of the lung was the most common male cancer, being responsible for 24,000 male deaths, and around 11,000 female deaths in England and Wales every year.
 - 30 More than 50 separate illnesses are now thought to be related to tobacco smoking and, of these, some 20 may lead to death. Over 50 known or suspected human carcinogens have been identified in mainstream tobacco smoke, and over 90% of male lung cancers, 70% of oesophageal cancers, as well as cancers of the stomach, pancreas, kidney and bladder have all been positively linked to cigarette smoking.
 - 31 Cigarette smoking also affects the heart and cardiovascular system. The major biological and physiological effects include decreased oxygen carrying capacity

- resulting in decreased exercise ability and myocardial ischaemia, increased platelet activation, endothelial damage, altered lipoprotein levels and increased arterial wall thickness.
- 32 As a consequence, almost 60% of ischaemic heart disease ('angina' and 'heart attacks') in younger men (35-54 years), as well as 60% of cerebrovascular disease (cerebral haemorrhage and 'stroke') in this age group, 64% of aortic aneurysm and around 20% of atherosclerosis in both sexes are also linked to cigarette smoking.
 - 33 In addition, cigarette smoking is responsible for around 85% of all chronic obstructive airways disease (including chronic bronchitis and emphysema), and over 35% of pneumonia in those under 64 years. Those women of reproductive age who smoke or are exposed to high levels of environmental smoke are at greater risk of reproductive problems including cervical cancer, spontaneous abortion, low birth weight infants, increased risks of cot deaths, and respiratory infection and increased rates of asthma in their children.
 - 34 In total, regular cigarette smoking doubles mortality. Half of all adolescents who are now smoking will die from diseases caused by tobacco if they continue to smoke. One quarter will die after 70 years of age, and one quarter before, with those dying before 70 losing an average of 23 years of life. The White Paper '*Smoking Kills*', published in 2000, estimated that, each year, around 120,000 Britons die from tobacco related disease. This equates to 6 million tobacco related deaths in Britain in the fifty years between 1950 and 2000.
 - 35 Previous policy letters (Billet d'État XII 1996 Para 31 and Billet d'État VI 2002 Para 25) have used similar methodology to estimate smoking related deaths in Guernsey. On this basis, there were an estimated 5,400 deaths in Guernsey and Alderney between 1950 and 1995, and a further 400 since 1995 due to the decrease in adult smoking prevalence.
 - 36 That this terrible toll is due to the unique and lethal properties of cigarette smoke is confirmed by the fact that the mortality of pipe and cigar smokers who have never smoked cigarettes is only 9% greater than that of lifelong non smokers.

The hazards of environmental tobacco smoke

- 37 Environmental tobacco smoke (ETS) is a major source of indoor air pollution. Breathing other people's smoke is called passive, involuntary or 'second hand' smoking. The non-smoker breathes in both '*sidestream*' smoke from the burning tip of the cigarette and 'mainstream smoke' that has been inhaled and exhaled by the smoker.
- 38 Non smokers exposed to environmental tobacco smoke may suffer both immediate and longer term effects. Immediate effects include irritation of the eye, sore throat, phlegm, cough, and in some cases dizziness and nausea. Adults

with asthma can experience a significant steep decline in lung function when exposed, or asthma may be induced for the first time in children whose parents smoke. Short term exposure to tobacco smoke also has a measurable effect on the heart function of non smokers, - just 30 minutes of exposure is enough to reduce coronary blood flow.

- 39 It is also a commonplace observation amongst non smokers that these effects may persist for a number of hours, and many report the following morning that their hair and clothes still retain sufficient residual smell of stale tobacco as to require a shampoo or laundry.
- 40 It is surprising, therefore, that so many smokers and the owners and proprietors of pubs, restaurants and other public places where smoking is still allowed, now generally accept that smoking causes real harm to the health of smokers, but argue and insist that environmental tobacco smoke will not cause proportionate harm to the health of those involuntarily exposed it.
- 41 The evidence that this is not the case is now overwhelming. Apart from the residual smell of tobacco smoke in hair and clothing, active metabolites of nicotine can be measured in the saliva, blood and urine of non-smokers exposed to environmental tobacco smoke even for short periods. Longer term exposure over a period of weeks results in the build up of nicotine in actively growing parts of the body, such as the hair. In addition, increased rates of tobacco related illness can be demonstrated in non smokers exposed to environmental tobacco in both the home and the work environments.
- 42 The most widely used biomarker of environmental tobacco smoke is cotinine. Cotinine is the major metabolite of nicotine and is specific to tobacco. It can be measured by gas chromatography, mass spectrometry or radioassay. The plasma half life of cotinine in adult humans is approximately 15 hours. This makes it a good indicator of exposure over the past 2-3 days. The half life of cotinine in infants and children is much longer, and in the order of 40-60 hours.
- 43 A survey of London pubs in September 2001 showed a mean saliva cotinine level of 3.65 in non smoking bar staff, compared with 0.30 in non smokers from a non smoking household. Because ETS can affect the oxygen carrying capacity and viscosity of the blood within 30 minutes of continuing exposure, this represents an eleven fold increase in the risk of heart attack in non-smokers who are so predisposed.
- 44 Since hair is continually growing, nicotine is taken up and stored by the growing hair shaft, and so can afterwards be analysed and measured, giving a marker of nicotine exposure over several months. Hair nicotine levels in non-smoking bar staff working 8 hour shifts in a smoky atmosphere over a period of time have been shown to be equivalent to smokers smoking 10 cigarettes per day.
- 45 ‘*Mainstream smoke*’ is generated at a higher temperature than ‘*sidestream*

smoke' (approximately 800 to 1,000°C for *mainstream* smoke, against 600°C between puffs for *sidestream* smoke). Because *sidestream* smoke is produced at lower temperatures and under more reducing conditions, many carcinogens and other toxicants are generated in greater amounts.

- 46 Additionally, *mainstream* smoke particles tend to be of larger size, and are therefore deposited preferentially in the upper respiratory tract. Submicron size particles (as found mainly in *sidestream* smoke) are predominantly deposited by diffusion in the lower respiratory tract, where the presence of more sensitive cells and reduced clearance mechanisms all have a major influence on the potential for consequent lung damage.
- 47 A secret testing programme by a German tobacco company has recently shown that *sidestream* smoke is four times as harmful as directly inhaled smoke. This may seem counter-intuitive, but the explanation is simple. Much *sidestream* smoke comes from cigarettes smouldering in ashtrays at low temperatures, which produce higher levels of toxins and carcinogens than when actively smoked. The same effect is seen when dioxins are produced from burning household waste in a backyard bonfire, compared with the negligible harmful emissions produced by combustion in a modern high temperature incinerator.
- 48 The risk of lung cancer from environmental tobacco smoke rises with the duration and degree of exposure. In 2002, the International Agency for Research on Cancer estimated from a metanalysis of recent research that, after controlling for potential sources of bias and confounding, the excess risk of lung cancer is of the order of 20% in women and 30% for men compared with non-smokers not so exposed.
- 49 Based on US publications, the Assistant Health Commissioner for New York City has stated (2004), '*Working an 8 hour shift, bartenders inhale carcinogens similar to smoking more than half a packet of cigarettes.....*' The involuntary risk to their health is at least proportional to this.
- 50 A survey of non-smoking workers in the catering industry in Hong Kong confirmed that the majority of catering workers (waiters and other staff) are exposed to high levels of environmental tobacco smoke in their workplace. Amongst a catering workforce of 200,000, it was estimated that, over a working lifetime, 6,000 will die from passive smoking due to heart disease and lung cancer, and of these deaths, 64% will be amongst workers who had never smoked.

The legal position

- 51 Most Western countries now have rigidly enforced legislation to safeguard health and safety at work, at public events and in public places more generally. In Guernsey, the '*Health and Safety at Work (General) (Guernsey) Ordinance 1987* parallels the UK legislation and requires employers to provide '*as far as*

reasonably practicable 'a safe place and safe conditions of work'.

- 52 Following a new analysis (2004), the Chartered Institute of Environmental Health (CIEH), and Action on Smoking and Health (ASH) have concluded that *'Smoking is the number one health and safety hazard in British workplaces'*. They estimate that 700 premature deaths a year may be attributable to inhaling secondhand smoke at work - three times the number of people killed in all other industrial accidents. The Health and Safety Executive reported 226 deaths from all other industrial accidents in the UK in 2002/2003.
- 53 Bar staff, particularly, receive a greater exposure to both *mainstream* and *sidestream* smoke due to their close proximity to smokers sitting at the bar. In evidence presented to the Royal College of Physicians in London, May 2004, it was estimated that *'one pub worker a week dies from breathing other people's tobacco smoke'*. On this basis, being a worker in the hospitality sector exposed to environmental tobacco smoke carries greater work-related health risks than being either a police officer or a fire fighter.
- 54 The Chief Executive of the Chartered Institute of Environmental Health, Mr Graham Jukes, has commented *'It is a fundamental principle of health and safety law that employees should be protected from hazards in the workplace that adversely affect or threaten their health, and that all employees should be protected equally. The benefit of the Republic of Ireland's legislation is that it not confined to the hospitality sector or offices, shops and factories, but extends to all work environments – which is as it should be.'*
- 55 The Tourism and Hospitality Sector is an important part of the Irish economy. Nonetheless, unions representing workers in this sector were amongst the strongest advocates for a ban on smoking in all such venues in Ireland. They pointed out that *'workers in the hospitality sector are amongst the least well paid, the least unionised, and with the least job security. They may be doing second class jobs, but they do not have second class lungs.'* Such union support was felt to be very influential in persuading the Irish parliament to bring in their smokefree legislation.
- 56 Without effective legislation protecting health at work, workers who feel that their health has been damaged by workplace exposure must resort to civil action. For example, US flight attendants won a £300 million settlement in 1997 in a class action lawsuit on behalf of cabin crew harmed by ETS before smoking was banned on domestic flights in 1990.
- 57 In 2000, in the Netherlands, a court upheld a postal worker's complaint that her exposure to tobacco smoke in the workplace infringed her right to work in a smoke free environment.
- 58 In Australia, in 2001, a non-smoking barmaid was awarded \$235,000 for cancer caused by working for 11 years in a smoky bar.

- 59 In the UK, Veronica Bland (1993) and Beryl Rowe (1995) were awarded £15,000 and £25,000 respectively in ‘out of court’ settlements for health damage claimed to be ETS related. However, in further cases, Agnes Rae (1997) and Sylvia Sparrow (1998) both failed on the grounds that their *‘employers had taken reasonable steps to protect employees against the hazards of tobacco smoke’*.
- 60 More recently, in 2003, Mickey Dunn was awarded £50,000 for asthma which he claimed developed as a result of ETS, but only on the grounds that the employers did not accept liability for his illness.
- 61 With the increasing scientific evidence of the harmful effects of environmental tobacco smoke, it can only be a matter of time before there is a successful legal case in an English court in which such damages are awarded. When this happens, it is expected that insurers will insist on effective measures to remove or reduce such hazards.

Are ventilation systems or air filters an effective alternative?

- 62 In its evidence to the Irish Parliament, the Health and Safety Authority pointed out that the use of available ventilation technology was unsatisfactory for controlling work-related exposure to ETS, whilst air cleaning was similarly problematic.
- 63 With a ventilation rate of one complete air change per hour, it would take more than three hours for 95% of the smoke in a typical bar to be dissipated once smoking had ended. However, typically, in an enclosed bar or restaurant space, levels of smoking will continue and often increase as the evening progresses. Even a ‘state of the art’ ventilation system, in perfect working order, cannot cope with the bar in which smokers are adding toxins to the atmosphere as fast as they are being removed – *‘like trying to empty a bath with both taps running’*.
- 64 Although air filters for air cleaning are capable of high capture efficiencies, they also require high airflow to be effective, and need regular maintenance to remain effective. Costs are always a major consideration in the restaurant industry, which limits the implementation of such high technology by high maintenance solutions.
- 65 A further difficulty is that once restaurants and other hospitality venues have made substantial investment in such technology, they will be very reluctant to move on to a more effective legislative ‘smoking ban’ for a number of years. Given the difficulties of ‘policing’ such systems to ensure they are regularly maintained and effective in operation, the Irish Health and Safety Authority advised that a legislative ban was the only way forward.

The global experience of going 'Smokefree'

- 66 In achieving a ban on smoking in enclosed public places, Ireland has joined a growing global trend.
- 67 The State of California first introduced legislation to eliminate smoking in enclosed work places including bars and restaurants through its Health and Safety legislation in 1995. The California State Labour Code now prohibits the smoking of tobacco in all enclosed places of employment. It is reported that the establishment of smoke free bars and taverns in California has been associated with a rapid improvement in the respiratory health of bartenders.
- 68 A smoke free law came into effect in South Australia on 4th January 1999. Since then, all Australian States have passed smoke free legislation, the most recent being in New South Wales on 15th November 2004, with the ban to become effective on 10th December 2004. Different States have differing rates of implementation, but it is predicted that, by 2006, the whole of Australia will enjoy 'smokefree' enclosed public areas.
- 69 Australia's antipodean neighbour, New Zealand, has also been in the forefront of tobacco control. New Zealand has had a legal requirement to have smoke free offices since 1990 and, building on its 'clean and green' image, New Zealand passed a '*Smoke Free Environments (Enclosed Areas) Amendment* in 1999. The New Zealand Prime Minister, Mrs Helen Clarke (a previous Health Minister) has commented '*The only way to make the legislation work is to go for 100% smokefree work places*'.
- 70 Vancouver, the capital of British Columbia has also been 100% 'smokefree' since 1999. They reported that, by May 2001, 2,585 out of 2,932 establishments showed full compliance with the law. Only two bars have been taken to court for repeated failure to comply.
- 71 Under Canada's provincial system of government, smokefree legislation is being introduced and implemented on a provincial or city by city basis. As at November 2004, it was estimated that 80% of Canadians enjoyed full or partial protection against environmental tobacco smoke in public places.
- 72 Following the influential report of the Irish Health and Safety Authority on the '*Health Effects of Environmental Tobacco Smoke (ETS) in the Workplace*' (December 2002), the Irish Minister for Health and Children, Mr Micháel Martin, said '*There is no moral option other than to take action for a complete ban.*'
- 73 Although the Irish Ministers for the Environment and for Agriculture were both opposed to such a ban, there was strong support from the unions, non governmental organisations and the Irish Council for Civil Liberties. Health Minister Martin added '*Many people have been coming up to me in the street*

urging me to go ahead with this initiative and not to back down'.

- 74 The Bill banning smoking in all enclosed workplaces from film sets to fishing boats was passed by the Dáil on 18th February and came into effect on 29th March 2004. The only exceptions were nursing homes, psychiatric hospitals and prison cells. Early reports suggest good compliance and growing public support for the measure throughout the Republic.
- 75 In Norway, in 1999, a survey showed that two thirds of adult Norwegians preferred non-smoking areas in bars and restaurants. In a further survey, in 2001, out of four options given, a total ban on smoking won the most support. Following a White Paper in November 2002, Norway agreed to go smokefree from 1st June 2004.
- 76 The Norwegian Prime Minister stated that this was mainly for the protection of workers and commented '*There is no acceptable level of risk related to passive smoking*'.
- 77 The Scottish Parliament followed the Irish example in November 2004, when it agreed to introduce a comprehensive ban on smoking in all enclosed public spaces in Scotland, to take effect by Spring 2006.
- 78 Pubs, restaurants and private clubs will not be exempt, '*as a clear cut policy is easier to understand and implement*'. Possible exemptions for residential and nursing homes, prisons and psychiatric hospitals have yet to be decided. Licensees or employers who fail to enforce the law will face fines up to a maximum of £2,500, whilst licensees who persistently refuse to comply will face the ultimate sanction of losing their liquor licence.
- 79 Scottish First Minister, Mr Jack McConnell, commented '*A comprehensive ban will be a clear signal that Scotland has changed. It will reduce smoking, save lives and help transform our national health. It will be easier to enforce and simpler to understand than other options that would fall short of that I believe there is no greater action to take to improve the wellbeing of children and families of Scotland for generations to come.*'

A typically English compromise?

- 80 The long awaited *White Paper on Public Health* published in November 2004, proposed that:
 - '*By the end of 2006, all Government departments and the NHS will be smokefree;*
 - *by the end of 2007, all enclosed public places and workplaces, other than licensed premises (and those specifically exempted) will, subject to legislation, be smokefree;*

- *by the end of 2008, arrangements for licensed premises will be in place'.*

- 81 The Secretary of State for Health, Dr John Reid, therefore stopped short of proposing a full smoking ban in all public places. Although he expected 80% of pubs to be smokefree by 2006, exceptions were made for pubs which sold wrapped food and for private clubs.
- 82 Leading professional organisations were quick to condemn these partial measures. Professor John Britton, Chair of the Royal College of Physicians Tobacco Advisory Group, commented *'The decision to let the 20% of pubs that do not serve food to allow smoking is a strange anomaly which needs to be rectified. Although all pubs will in future be supposed to protect their bar staff from smoke, this 20% will continue to expose their staff and customers to the risks of heart disease and cancer. This is a missed opportunity to promote both occupational health and public health.'*
- 83 The BMA Chairman, Mr James Johnson, declared *'John Reid has gone a long way to making enclosed public places smokefree, but he has not moved far enough.'* He suggested that the proposed legislation would be confusing, difficult to enforce and its introduction would be delayed. *'I am particularly worried about the timescale'* he said *'When lives need saving, doctors act immediately. John Reid should follow this lead.'*
- 84 Professor Alex Markam, Chief Executive of Cancer Research UK, said *'This is a huge missed opportunity. The Government has failed in its fundamental duty to protect our citizens' health and safety by opting out of a total ban on smoking in public places. It seems bizarre that the Government has accepted the wisdom of a ban, but is then happy to deny the benefits of it to people who work in private clubs and elsewhere where food is not served.'*
- 85 *'It's like having legislation to fit all cars with seat belts because we know that seat belts save lives, and then stopping some passengers from wearing them. New research suggests that second hand smoke in the work place causes about 700 deaths a year across the UK, including the death of 50 hospitality workers annually. It is madness to have a ban in Scotland and not one in England and Wales.'*
- 86 Indeed, the Members of the Welsh Assembly have already backed a total smoking ban in a free vote, and the Assembly has now called on Westminster for the right to introduce its own legislation to ban smoking. Consultation in Wales has already confirmed that the vast majority of Welsh people would support such a ban. BMA Welsh Secretary, Dr Richard Lewis, has stated, *'Whilst waiting for the English public health bill to wind its way through the Westminster processes, Welsh men and women are dying of cancer. If we can show London politicians that the people of Wales have the right to breathe smokefree air, we will have succeeded.'*

- 87 The Mayor of London, Mr Ken Livingstone, has also outlined his vision for a 'smokefree London' as an integral part of London's bid for the 2012 Olympics, whilst the city of Liverpool has already decided to go 'smokefree' and has applied to the House of Lords for special enabling legislation for this to occur.
- 88 In our sister island of Jersey, the States of Jersey agreed in November 2003 to introduce legislation (*inter alia*) 'to prohibit all smoking in public places that serve food' – defined as restaurants and hotels serving food, public houses and bars that serve food, cafes, snack bars, tea shops and canteens. The Jersey Health and Social Services Committee is to report back on progress within three years of the above date.

How successful would a smoking ban be in Guernsey?

- 89 Analysis of the ease of implementation and success in introducing 'smokefree' legislation across the range of jurisdictions summarised above shows that the likelihood of successful implementation appears strongly related to smoking prevalence, in the adult population. In jurisdictions with low levels of smoking prevalence such as California, New York, British Columbia and Australia (all with adult smoking prevalence of around 20%), widespread public support for the ban from non-smokers has led to ease of implementation and helped cushion any feared economic impact.
- 90 In contrast, in jurisdictions such as Ireland (27% adult smoking prevalence), Scotland (29%) and Jersey (28% of women and 29% of men) implementation may be more problematic, although early reports from Ireland show high levels of compliance and increasing public support.
- 91 The most recent Fourth 'Healthy Lifestyle' Survey for Guernsey (conducted in November 2003) shows an adult male smoking prevalence of 23% and female 19% (overall 21%).
- 92 The same survey revealed that 52% of all respondents (including smokers, ex-smokers and those who had never smoked) worried 'a great deal' or 'quite a lot' about 'inhaling other people's smoke'.
- 93 Further, the survey confirms there is now increasing public support for more restrictions on smoking in public places. In contrast with the Third 'Healthy Lifestyle' Survey, conducted in 1998 (and shown in brackets), support for total restriction ('no smoking at all') has grown as follows.

'Total Ban'	Smokers		Ex-Smokers		Non-Smokers	
On buses and taxis	(92%)	92%	(96%)	94%	(97%)	99%
In restaurants and cafes	(17%)	24%	(64%)	64%	(73%)	78%
In public houses	(5%)	9%	(31%)	31%	(27%)	41%

Following the reported success of the 'smokefree' ban in Ireland there is anecdotal evidence of a further increase in popular support for such a ban in Guernsey.

- 94 Additionally, the survey confirms that 69% of all current smokers would like to give up smoking, with 21% stating that they '*intend to give up smoking in the next month*' (up from **12%** in 1998), and a further **54%** stating they '*intend to give up smoking within the next year*' (up from **45%** in 1998). 44% (up from 36% in 1998) felt that '*restrictions on smoking in public places*' would assist them in giving up.
- 95 This has certainly been the experience of both New York and Ireland, where smoking bans have led to smokers either quitting or reducing consumption.
- 96 There is now a clear majority of the adult Guernsey population, **63.7%** - up from **55.7%** in 1998, who support increased restrictions, including a total ban in areas where '*other people's smoke*' might impinge on their own comfort and well-being. On that basis, proposals for a total ban in Guernsey might be predicted to enjoy wide popular support and to be relatively easy to implement and enforce.
- 97 The excellent work and results obtained by the locally based *Guernsey Quitline* must also be acknowledged. During 2004, over 700 clients attended the Guernsey Quitline, making it the busiest year ever. Seventy three percent of those smokers who set a 'quit date' remained stopped one month later, which compared very favourably with published quit rates throughout the UK, where only 54% of smokers remain stopped one month later.

What the law should contain

- 98 The need for a law to ban smoking in enclosed workplaces is based on four premises:
- There is a significant risk to health from exposure to environmental tobacco smoke.
 - Unless by their own choice, no one should, therefore, be exposed to such smoke.
 - All places where people are working should be free from environmental tobacco smoke.
 - Ventilation is not an effective alternative to legal restrictions on smoking in enclosed public places and worksites.
- 99 Given the reported recent successful introduction of 'smokefree' work and

public places in Ireland, it is proposed that as far as is consistent with Guernsey circumstances, local legislation should mirror the Irish provisions. An explanation of the Irish requirements and exemptions is contained in Appendix III.

- Enclosed public places are defined as places or premises covered by a fixed or moveable roof, which is surrounded by one or more walls or similar structures (inclusive of windows, doors, gates or other means of access to or egress from that part) for more than 50% of their perimeter, and to which a section of the public has regular access.
- Enclosed workplaces are defined as places or premises covered by a fixed or movable roof, which is surrounded by one or more walls or similar structures (inclusive of windows, doors, gates or other means of access to or egress from that part) for more than 50% of their perimeter, and which are being used wholly or mainly as a place of work by persons who are employees.
- There should be an adequate 'lead time' to allow restaurants and bars to set up reasonable alternative facilities for smokers, e.g. roofed areas open on at least 50% of their perimeter, perhaps heated by 'patio heaters, etc' during the winter.
- For clarity of legal drafting and ease of enforcement, there should be as few exemptions as possible. In particular, clubs and other incorporated associations should be included within the legislation in order to protect their paid employees. However, there will be a need for some exemptions, as in Ireland, where premises such as residential homes, psychiatric hospitals and prisons are exempt.
- It is proposed that Guernsey exemptions should be set out in an ordinance, made under the proposed law, which will be able to be varied by ordinance, as opinion may change in the future on what exemptions there should be. This will be prepared and put before the House as soon as possible after the enactment of the proposed law.
- It is the intention of the Health and Social Services Department to keep exemptions to a minimum, in line with Ireland but as the draft ordinance will be debated by the States it will be for members to determine the final exemption list. The full list of exemptions in Ireland is included as Appendix III.
- Fears that restaurant and bar staff would be the recipients of physical and verbal abuse from aggrieved smokers and would require extra training in aggression management (as was proposed in Canada) have been shown to be largely without substance.

- Given that the majority of the population are non-smokers, the law is effectively 'self policing'. However, given the strong support of the Chartered Institute of Environmental Health for a workplace ban, Environmental Health and Health and Safety Officers should act as information sources for employers and proprietors on the implementation and monitoring of the law as a normal part of their inspection duties.

What are the likely economic consequences of a smoking ban in Guernsey?

- 100 As summarised above, a number of jurisdictions have already introduced total bans on smoking in enclosed public spaces, and Guernsey therefore has a variety of models to help predict the likely economic impact locally. Such models include California (9 years' experience), South Australia (5 years), New York (3 years) and Ireland (8 months).
- 101 England's Chief Medical Officer, Sir Liam Donaldson, has already made the economic case for England to go "smokefree" in his Annual Report '*On the State of the Public Health*' 2003.
- 102 He concludes that '*A policy of creating smokefree workplaces in public places would yield an overall net benefit to society of £2.3 billion-£2.7 billion annually, equivalent to treating 1.3 – 1.5 million hospital waiting list patients.*'
- 103 He adds '*Smokefree laws help rather than hinder the hospitality industry. For example, New York has seen an increase in both taxable sales from eating, drinking and hotels establishments and restaurant employment (up 18% compared to 5% in the area around about) since going smoke free, and New York, Los Angeles and San Francisco have seen tourism revenues and employment continue to grow.*'
- 104 He concludes '*The vast majority of good quality, published research confirms this positive result for business. Studies that claim to show that going smoke free is bad for business tend to be poor in quality and sometimes funded by the tobacco industry.*'
- 105 In South Australia, monthly sales data from restaurants and cafes, some two years after the 'smokefree' law came into effect in January 1999, were generally higher than the preceding 10 years, and some 50% higher than immediately before the ban.
- 106 Prior to the 'smokefree' debate in the Scottish Parliament, the Scottish Executive had commissioned a research team from the University of Aberdeen to prepare a report on '*International Review of the Health and Economic Impact of the Regulation of Smoking in Public Places*'.
- 107 The study estimated a gain in productivity from workplaces going 'smokefree' of between £289 million and £685 million (1998 prices), when any form of

smoking policy was introduced to a previously unregulated 'smoking' workplace, due to greater productivity.

- 108 It also pointed out the greater rates of sickness absence amongst smokers, particularly with asthma and chronic bronchitis (estimated between 83 and 166 million days per year in Great Britain) and the cost of fire damage related to smoking on business premises (estimated at £4.45 million in Scotland) (1998 prices) and £52 million for Great Britain (1998/1999 prices).
- 109 With respect to the impact of smoking restrictions in restaurants, the team studied ten studies from the USA and one from Australia. They reported *'Most of the study results were not significant, and most of the effect sizes, whether positive or negative were small. Results from one study were used in the estimation of impacts for Scotland – results were reported in terms of an impact on the rate of growth of restaurant revenues of +0.25% (95% CI –1.32 – +1.81%)*.
- 110 With respect to bars, one study of the effects of restrictions in California showed the impact of bar sales, as a fraction of total of retail sales was positive but not significant. The effect on tourist numbers was not significant or positive. The range of estimated effects on the growth of hotel room revenues in these studies was from –7% to +26%.
- 111 An Australian report published in 2003 examined almost one hundred studies from Canada, UK, US, Australia, New Zealand, South Africa, Spain and Hong Kong, comparing the quality and funding source of the studies and their outcomes. They found no negative impact or a positive effect in studies based on objective and reliable measures such as taxable sales receipts, data several years before and after the introduction of 'smokefree' policies, and where controls for changes in economic conditions were employed, and where statistical tests were used to control for underlying trends and data fluctuations.
- 112 The authors found a few objective studies with negative economic effects but concluded *'All the best designed studies report no impact or a positive impact for smokefree restaurants and bars laws on sales or employment. Policymakers can act to protect workers and patrons from the toxins in secondhand smoke confident in rejecting industry claims there will be an adverse economic impact*.
- 113 As has been found in other jurisdictions, the economic consequences of a ban on smoking in public places in Guernsey are likely to be neutral or weakly positive. Some smokers may be dissuaded from going out more to pubs and restaurants, and more may choose to smoke at home. On the other hand, the 80% of the adult population who regard themselves as non-smokers may be encouraged to eat and drink out more regularly if their enjoyment is not spoilt by 'other people's smoke'.
- 114 Certainly, analysing the impact of the first six months of a 'smokefree' ban in

the Republic of Ireland, excise figures show that 1.1 billion fewer cigarettes were sold this year compared with last, although part of this fall is felt to be due to a vigorous advertising campaign for their '*smoking quitline*'

- 115 However, the Finance Department's figures show that alcohol sales have not been adversely impacted by the ban, and in fact drink sales have actually increased in volume, spirits up by 4%, wine up 10%, cider up 2% and beer down just 1%. The Finance Department state that the drop in excise revenues from cigarettes would be more than offset by the increase in the sale of spirits, wine, cider and petrol (up 3%). Finance Minister Brian Cohen has said '*The large drop in cigarette consumption proves that the Government's brave decision on the smoking ban was a good public health initiative.*' He refused to rule out putting a higher excise duty on cigarettes in his next Budget.

Counter arguments by the tobacco industry and their allies.

- 116 In the range of jurisdictions which have attempted to introduce 'smokefree' regulations, the response from the tobacco industry, and those who perceive themselves to be allied with them have been both predictable, and remarkably similar.
- 117 Initially, there is an attempt to 'rubbish the evidence', commission their own studies, misquote or only partially quote from other published studies, and generally imply that the scientific community is split over the issue.
- 118 In fact, most respected academic bodies both internationally and nationally overwhelmingly endorse the evidence on the harmful effects of environmental tobacco smoke, and have come out publicly in support of appropriate bans.
- 119 Such organisations include the *World Health Organisation* (2002), *The World Bank* (1999), the *US National Institutes of Health* (NIH) (2000), the *California Environmental Protection Agency* (1997), the *Australian National Health and Medical Research Council* (1997) and the *US Surgeon General* (1986).
- 120 Closer to home, the Royal College of Physicians, the Royal College of Paediatrics and Child Health, the Royal College of Surgeons, the Royal College of Nursing and the heads of all nine other Royal Colleges of Medicine, the Department of Health's '*Scientific Committee on Tobacco and Health*' (SCOTH), England's Chief Medical Officer and the Chartered Institute of Environmental Health, amongst others, have all recently spoken out in support of such a ban.
- 121 The next tactic of the tobacco industry is to assert that the hospitality industry would be hurt by smoking bans and restrictions.
- 122 The Australian Report referred to above found that studies funded predominantly by the tobacco industry, or by industries allied with it was based predominantly on predictions or subjective impressions or estimates, rather than

objective verified data. Practically none of these studies was published in a peer reviewed journal.

- 123 A figure of 30-35% for restaurant and bar closures and job losses following a 'smokefree' ban is repeatedly quoted, but appears to have no firm objective basis. In fact, in a leaked (1994) memorandum, the largest US tobacco company, Phillip Morris stated *'The economic arguments often used by the industry to scare off smoking ban activity were no longer working, if indeed they ever did. These arguments simply had no credibility with the public, which isn't surprising when you come to consider that our dire predictions in the past rarely came true.'*
- 124 A further character who regularly appears in the bid to prevent smoking bans is *'The old soldier who fought for our freedom in the war, and who you now want to force outside to enjoy one of his few remaining pleasures'*. The reality is that the lowest smoking prevalence is now amongst the oldest. In the Fourth Guernsey *'Healthy Lifestyle'* Survey referred to above, smoking prevalence in the over 65's was less than 10% for males and less than 5% for females.
- 125 In fact, if the 'old soldier' were 17 when he first enlisted in 1940, and is still alive today, he would now be over 80 – two years older than the average male life expectancy in Guernsey. Although there will of course be exceptions, sadly, if he has been a regular smoker since the Second World War, it is extremely unlikely that he would still be alive.
- 126 Australia has a very active and well supported *'Returned Servicemens' League'* (RSL) – somewhat akin to the British Legion. When attempts to exclude RSL clubs from the smoking ban proposed for restaurants and pubs in New South Wales were made, this was vigorously opposed by the head of RSL on the basis that *'He had lost far more comrades through smoking since the war, than were ever lost in action during it'*.

Summary – what is best for Guernsey?

- 127 There is now solid scientific evidence, supported by almost all reputable scientific bodies both internationally and nationally that environmental tobacco smoke is harmful to health, and particularly that it causes significant and measurable morbidity and mortality amongst those who are involuntarily exposed to it.
- 128 Governments across the Western world have accepted a collective responsibility through their *'Health and Safety'* legislation to protect workers from involuntary and preventable risks to their health and lives.
- 129 This would appear to be an absolute responsibility. It would be both unreasonable and irrational to offer protection to some workers but to exclude others. On this basis, workers in the hospitality industry, whether bar or restaurant staff deserve equal protection with other workers – particularly since

their circumstances mean that they are often restricted in their choice of other work.

- 130 'Approved codes of practice' have been rejected as offering too little real protection, whilst ventilation systems have been shown to be largely ineffective and impossible to police. Partial bans would still leave many workers exposed to the real dangers of environmental tobacco smoke.
- 131 The Health and Social Services Department originally intended to propose an option of only a partial ban, banning smoking in most worksites, including restaurants, but allowing it to continue in pubs and bars. However, having reviewed the indisputable evidence of the harmful effects of environmental tobacco smoke, the need to offer equal protection to all workers, the relative ease of implementation of a complete ban in countries like Norway and Ireland and the difficulties of enforcement predicted by the compromise preferred in England, the Department believes that the only logical and enforceable position is one of a complete ban on smoking in enclosed public spaces, along the lines agreed by the Irish Dáil and the Scottish Parliament.
- 132 Very much as a 'second best' alternative would be a smoking ban in public eating places as originally proposed in Billet d'État VI 2002, and summarised in paragraphs 6-8 of this report but updated to cover bars which serve food.

View of the Commerce and Employment Department

- 133 When first proposing such a ban on '*Health and Safety*' grounds, the Health and Social Services Department contacted the Commerce and Employment Department for its view. The Commerce and Employment Department initially declined support and suggested that, if the Health and Social Services Department wished to see a ban on smoking in public places, then this should be put forward as a community health, rather than a health and safety initiative.
- 134 The Commerce and Employment Minister later explained (October 2004) '*The Board is not unsympathetic to concerns about smoking in the workplace, and is convinced that it is inevitable that in time smoking will not be accepted in an indoor working environment and in particular it will be regarded as antisocial in restaurants, cafes, public houses and so on.*'
- 135 '*However the Board's view is that this is best achieved by a cultural change. The Board recognises the good work undertaken by your department and in particular by the Director of Public Health, in alerting Islanders to the very real dangers of both smoking and exposure to tobacco smoke generated by others. He believes that this provides an excellent backdrop against which attitudes will in time change. What the Board is not comfortable with is using the heavy hand of legislation to accelerate that process.*'
- 136 '*I know you will be disappointed by this response but I hope you will understand*

the Department's position and will make reference to it in the approach to the States. In response to the draft States Report, the Commerce and Employment Department wrote 'The Board of Commerce and Employment have nothing to add to the comment already expressed to you in their letter of 6th August 2004.'

- 137 Whilst accepting the sincerity with which these views are held, the Health and Social Services Department strongly feels that these are incompatible with offering equal and adequate protection to the whole workforce and to the public more generally.
- 138 The Department has also noted the rapidly changing attitudes to environmental tobacco smoke around the world, and the increasing likelihood of a successful legal outcome for an employee claiming damages due to smoke related illness through an English Court, and therefore believe that such a ban is eventually inevitable. Guernsey has the choice between legislating for a complete ban now, and remaining along with Ireland and Scotland as one of the acknowledged leaders in necessary tobacco control in Europe, or eventually being forced to make such changes as a consequence of a legal ruling.

Other Consultations

- 139 The draft States Report was also distributed both internally within the Health and Social Services Department, to other States Departments, other Islands in the Bailiwick and a number of professional and trade organisations and cancer groups as shown in Appendix I. The replies are contained at Appendix II – it will be noted that with the exception of that from the Commerce and Employment Department, all other replies have been supportive.
- 140 In particular, it will be noted that both the British Medical Association (Guernsey and Alderney Branch) and the Medical Specialist Group both strongly support such a ban.
- 141 Guernsey's Consultant respiratory physician adds '*based on validated epidemiological data we would expect an average of one death a year due to lung cancer by workplace passive smoking exposure in Guernsey.*' The Health and Social Services Department strongly feel that such likely harm to employee health would not be tolerated by the States or the public with regard to exposure to any other workplace hazard.
- 142 A lengthier submission was also received from the *Guernsey Adolescent Smokefree Project* (GASP) who *inter alia* point out that a smoking ban in enclosed public places would also help reduce the perception that smoking was 'adult behaviour', that young people will increasingly accept that socialising in smokefree environments is the desirable social norm, and this will in turn lead to a reduction in overall prevalence of adolescent smoking behaviour.

Recommendations

143 The Health and Social Services Department recommends the States to resolve:

- i) that legislation be enacted to provide a total ban on smoking in all enclosed public places, as summarised in paragraphs 98 and 99 of this report;
- ii) that legislation be enacted to provide a total ban on smoking in all enclosed work places as summarised in paragraphs 98 and 99 of this report;
- iii) that exemptions, as have been accepted in Ireland, such as residential and nursing homes, prisons and psychiatric hospitals be proposed to the States in an ordinance and be varied in future by ordinance;
- iv) that a 'lead in' period of at least one year be given to allow landlords and restaurateurs to provide non enclosed smoking areas if they so wish;
- v) that if the above recommendations are not accepted, then legislation to provide a ban on smoking in all public places that serve food, to include all restaurants and hotels serving food, public houses and bars that serve food, cafes, snack bars, tea shops and canteens be enacted, with a similar lead-in period as set out in proposition (iv).

Yours faithfully

P J Roffey
Minister

**PROTECTING THE HEALTH OF WORKERS AND THE PUBLIC
AGAINST ENVIRONMENTAL TOBACCO SMOKE**

Proposed distribution list for consultation

- **Internal**

Corporate Management Team
Health Promotion Unit
Environmental Health Department

- **Other States Departments**

Home Department
Commerce and Employment Department
Culture and Leisure Department

- **Other islands of the Bailiwick**

States of Alderney
Sark Chief Pleas

- **Professional and Trade Organisations**

British Medical Association
Royal College of Nursing
Health Visitors (CPHVA)
Guernsey Association of Nursing
Royal College of Midwives
Medical Specialist Group
Royal Pharmaceutical Society
Guernsey Physiotherapy Group
British Dental Association
British Heart Foundation
Guernsey Adolescent Smokefree Project
Guernsey Licensed Victuallers Association
Guernsey Hotel and Tourism Association
Primary Care

- **Cancer Groups**

Cancer Research Campaign
Imperial Cancer Research
Sunflower Trust
Bowl Cancer Awareness Charity

Prostate Support Group
Pink Ladies
Alderney Cancer Relief

**PROTECTING THE HEALTH OF WORKERS AND THE PUBLIC
AGAINST ENVIRONMENTAL TOBACCO SMOKE**

Replies to Consultation

COMMERCE AND EMPLOYMENT DEPARTMENT

Deputy P J Roffey
Minister
Health and Social Services
Le Vauquiedor
St Martins
Guernsey
GY4 6UU

6th August 2004

Dear Deputy Roffey

Health and Safety aspects of environmental tobacco smoke

Thank you for your letter dated 29 June and attachment in which you look for the Commerce and Employment Department's support for an early approach to the States, seeking a ban on smoking in *all* work places.

As you will appreciate the Commerce and Employment Department has a wide mandate and one element of its responsibilities is to ensure that we create an environment that attracts the business traveller as well as the visitor to the Island.

It is in this respect, we have carefully considered the potential outcome of a total ban on smoking in all work places and have noted, with interest, the situation within the United Kingdom. On balance the Commerce and Employment Department would not be able to support a joint approach and I would justify this decision by highlighting the following:-

- The Health and Safety at Work (General) (Guernsey) Ordinance, 1987 provides protection for all persons at work and those who might be affected by those work activities. Our local provisions are a direct parallel of the UK Health and Safety at Work Act. In 1999 the Health and Safety Commission in the UK issued a consultative document proposing an Approved Code of Practice on

passive smoking at work, which was intended to give more detailed guidance on the subject.

- In common with normal local practice the Department's Health and Safety Executive have always provided employers with this document, which directs employers to positively discriminate for non-smokers and control exposure as far as is reasonably practicable in situations like bars and restaurants.
- Following an exhaustive consultation process, involving interested parties, the Approved Code of Practice was rejected by the Secretary for State due to the impact that it would have on the hospitality industry (between £3.1 billion and £8.9 billion with a benefit to society of between £1.4 billion and £2 billion).
- The Department is aware that demand for smoke-free rooms by visitors in the accommodation sector has increased significantly over recent years, to the extent that it is now non-smoking rooms and areas that are the norm, with exceptions being made for those who wish to smoke. This has been achieved without the need for legislation, as a business response to changes in customer demand.
- For similar reasons related to their commercial interest, catering and hospitality establishments such as restaurants and cafes control smoking in their premises through the designation of specific non-smoking and smoking areas. The major exception is Public Houses, where smoking is still the norm.
- The reasons for designated non-smoking areas in hospitality establishments are more closely related to the amenity and comfort of customers, rather than to health itself, although the effects of environmental smoke on health are well documented and noted.
- In marketing terms it is not felt that what would effectively be a total smoking ban in public eating and drinking places would attract additional visitors to the Island, as Guernsey already has a "clean air" image. What it would be likely to do is seriously inconvenience, and discourage visits from, that proportion of our visitors who smoke, or who come to the Island with someone who smokes. A total ban would therefore be detrimental to the visitor economy (it should be noted that the figures related to alleged additional business do not indicate whether this is from visitors or local residents).
- As an alternative, more efforts could be made, if necessary by legislation, to ensure that all catering premises, including restaurants, cafes and Public Houses, introduce a separation between smoking and non-smoking areas, with the priority being given to areas which are non-smoking. Premises that are too small, or are inconvenient to be so separated, could be required to operate as a non-smoking establishment.
- In terms of staff, it is recognised that working in a smoky environment (which for some premises has "traditionally been part of the job") does increase the risk

to health, but the increases quoted (19% to 50%), although significant can be reduced by ensuring that the bar itself is situated in a non-smoking area and/or the installation of an effective ventilation system, specifically designed to give priority to the bar area.

- The Department's Health and Safety Executive is not able to see why the Medical Officer of Health equates smoking with asbestos, as they are separate issues, which require attention in a completely different manner.
- The Medical Officer of Health seems to be looking almost exclusively at exposed persons in the work situations as being those who work in the hospitality industry. A total ban on smoking at work would include workplaces such as building sites, prisons, offices and hotels. Legislation that changes the Health and Safety Executive with an enforcement role in preventing all employees from smoking whilst at work would be expensive to administer and divert their resources away from other important areas of their work.

An appropriate option for the Health and Social Services could be, as illustrated above, to take steps to mirror the changes in demand that has already been experienced by the accommodation sector, by further moving the balance of priority in the broader catering sector towards the non-smoker.

With the above in mind, it is the suggestion of the Commerce and Employment Department that Guernsey follows the position taken by the Health and Safety Executive in the UK to this approach. If Health and Social Services wish to see a ban on smoking in public places then perhaps it should be taken forward as a community health issue rather than health and safety.

I would appreciate the comments of the Commerce and Employment Department being incorporated into the report of Health and Social Services.

Yours sincerely

Stuart Falla
Minister

COMMERCE AND EMPLOYMENT DEPARTMENT

The Minister
Health and Social Services
Princess Elizabeth Hospital
Le Vauquiedor
St Martin's
GY4 6UU

22nd December 2004

Dear Deputy Roffey

**SUBJECT: PROTECTING THE HEALTH OF WORKERS AND THE PUBLIC
AGAINST ENVIRONMENTAL TOBACCO SMOKE**

Thank you for your letter of 15th December 2004 on the above subject. The Board of Commerce and Employment have nothing to add to the comment already expressed to you in their letter of 6th August 2004.

Yours sincerely

Stuart Falla
Minister



CULTURE AND LEISURE
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Culture and Leisure
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www.gov.gg

21 January 2005

Deputy P J Roffey
Minister
Health and Social Services Department
Le Vauquiedor
St Andrew's
Guernsey
GY4 6UU

Dear Deputy Roffey

Re: Protecting the Health of Workers and the Public against Environmental Tobacco Smoke

I refer to your letter dated 15 December 2005 and your request for comments on the above mentioned policy letter from the Culture and Leisure Department.

I write to confirm that by majority my Department support the recommendations contained within the policy letter and am, in so doing, pleased to pass on the Department's experience of the prohibition on smoking in areas under its control.

Beau Sejour

The Café and Bar area has been non smoking since June 2003. There has been no loss of income or custom as a result. We, however, receive a small number of complaints from disgruntled customers, but most of our patrons seem to have accepted the situation.

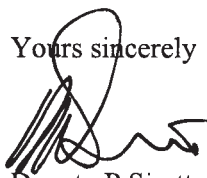
Museums

The museums introduced a similar ban a number of years ago and subsequently they have not received any complaints.

I would, however, like to pass on the observations put forward by one member of the Board who, whilst supporting the no smoking in public places, is not in support of legislation to do so. This person believes that the responsibility for protecting employees should be driven by employers, who should have responsibilities to their staff and also believes that the policy should be policed by islanders not dictated by the States. Culture and Leisure's experience with respect to Beau Sejour and the Museums had shown that this policy can work. This person is not in support of the recommendations in the policy letter.

I await the debate with interest.

Yours sincerely


Deputy P Sirett
Minister



HOME

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Home

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Deputy Peter Roffey
Minister,
Health & Social Services Department
Princess Elizabeth Hospital
Le Vauquiedor
St Martins
GY4 6UU

11th January 2005

Dear Deputy Roffey

Re: Protecting the health of workers and the public against environmental tobacco smoke.

Thank you for your letter of 15th December regarding the above draft States report.

The Home Department Board members considered the paper and were supportive of the measures proposed.

However, the Board noted that there was no mention of the potential increase in service demand on local smoking cessation services (Quitline and GASP), or any provision of extra funding to address such an increase. Evidence from other administrations who have implemented similar proposals has resulted in increased uptake in smoking cessation services with a contemporaneous increase in government funding.

I would be grateful if you would give this consideration.

Yours Sincerely

MW TORODE
Minister
Home Department

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21st December 2004

States of Guernsey
The Minister
Health and Social Services Department
Public Health and Strategy
Princess Elizabeth Hospital
Le Vauquiedor
St Martin's
Guernsey GY4 6UU

Dear Sir

**CONSULTATION DOCUMENT ON STATES DRAFT REPORT: Protecting
the health of workers and the public against environmental tobacco smoke**

Thank you for your letter dated 15th December 2004 on the above-mentioned subject. I am replying on behalf of the President of the Sark Medical Committee who has considered the draft report enclosed with your letter.

I am directed to thank you for consulting with the Sark Authority but am asked to say that Sark would not wish, at this stage, to be included in any legislation developed for Guernsey in this area. Were Sark to consider legislating on this subject, at a future date, it would do so by developing a law specific to Sark.

The contents of the draft report are noted with interest but Sark does not have any comments to make on the report.

Yours faithfully

Lt Col RJ Guille MBE
Seneschal of Sark

Copy to:

JM Beaumont OBE – President, The Medical Committee

**British Medical Association
Guernsey and Alderney Division**

c/o Rohais Health Centre, St Peter Port, Guernsey GY1 1FF
Telephone: 01481 723322 Fax: 01481 725200



Our Ref:- CW/clf/5015

13 January 2005

Minister P Roffey
Health and Social Services
A States of Guernsey Government Department
Director of Human Resources
Corporate Headquarters
Le Vauquiedor
St Martins
Guernsey
GY4 6UU

Dear Minister Roffey

Re: Protecting the Health of Workers and the Public against Environmental Tobacco Smoke.

Thank you for your letter dated 15 December enclosing a copy of the paper on Protecting the Health of Workers and the Public against Environmental Tobacco Smoke. I can confirm that this paper was discussed by the Executive Committee of the local division of the Guernsey and Alderney Division of the British Medical Association and we would support the recommendations contained in this paper.

The Executive Committee also commented that access to nicotine replacement therapy, bupropion and / or, one to one or group counselling should be made as freely available as possible.

Yours sincerely

Dr M Costen
President





THE MEDICAL SPECIALIST GROUP

Deputy Peter Roffey
Minister
Health and Social Services Department
Corporate Headquarters

21 January 2005
MGN/jlp

Dear Peter

Re: Protecting the Health of Workers and The Public Against Environmental Tobacco Smoke

Thank you for your letter of 15 December 2004, which has been distributed to our doctors for their comment.

A significant majority of our doctors strongly support the intent of and the recommendations made within the document.

I enclose a letter from Dr Anees to yourself, setting out the Physicians view.

Kind regards

Yours sincerely

Mike G Nicolle
Chief ~Executive

Enc



THE MEDICAL SPECIALIST GROUP

Our ref: WA/ch

Mr P J Roffey
Health and Social Services Department
PEH

20 January 2005

Dear Mr Roffey

Re: Protecting the health of workers and the public against environmental tobacco smoke

We have reviewed the health and social services department report and fully support the medical facts presented in this document. Based on validated epidemiological data, we would expect an average of one death a year due to lung cancer caused by work place passive tobacco smoke exposure in Guernsey.

King regards

Yours sincerely

Dr W Anees MBBS MRCP PhD
On behalf of the Department of Medicine



Guernsey Adolescent Smoke-free Project

Brockside, The Grange, St. Peter Port, Guernsey, GY1 1RQ

Tel 01481 727899 Fax 01481 722899

Email: gaspguernsey@cwgsy.net

Web: www.gasp.org.gg

182/AW/WLC

28th January, 2005

Deputy P. Roffey,
Minister,
Department of Health & Social Services,
Princess Elizabeth Hospital,
St Andrews,
GY4 6UU

Dear Deputy Roffey

Re: GASP response to the proposed Smokefree Legislation

As you know the role of GASP is to ensure that young people have the right to grow up in a smoke free environment. On behalf of the GASP Committee I am pleased to make a response to the proposed smokefree legislation.

The island, especially the States of Deliberation, should be proud of the stance that it has taken in promoting a smoke free Guernsey. The report is modest in reporting the very real successes that Guernsey has had in reducing smoking especially amongst its young people. The island must build upon its current status as a world leader in tobacco reduction amongst young people.

It is necessary to remind ourselves of our successes in Guernsey as they demonstrate that there is now an acceptance that smoking is not normal and the natural conclusion of the public's support of our work is smoke free legislation. It is also important that the public is made aware of the far-sighted approach of the Department of Health and Social Services in funding the initiative. This will serve to remind Deputies that Guernsey has been bold in its approach compared to other communities and achieved more in tackling tobacco. Hopefully this will give them the confidence to play their part in continuing this Guernsey success story.

The success of the States report will, of course, be essential to tobacco control measures in Guernsey. We are confident that the States will reflect public opinion and ban smoking in public places. However if we fail to carry through recommendations 142 i-iii we will struggle to maintain the island wide momentum which has led to such a dramatic reduction in tobacco consumption.

We see no need for recommendation 142 iv. which will be unworkable. It is clear that this will:

- Condone smoking, especially amongst young people;
- Fail to address the public health issue of protecting the welfare of hospitality workers;
- Cause an additional administrative burden that will lead to confusion and an undermining of the measure;

- Make more difficult the work of GASP in reducing the numbers of young people who smoke.

We applaud the Department of Health and Social services for commending to the States recommendation 142 i-iii. We will, of course support you in the weeks prior to the debate by making the public aware of the benefits of introducing legislation and by countering the lies that will be promulgated by the representatives of the tobacco industry.

Yours sincerely,

A. Williams
Chairperson
GASP



PINK LADIES
Breast Cancer Support Group
Guernsey

Patrons
Lady Foley
Lady Carey
Mrs Diana Rowland

Deputy P J Roffey
Minister
Health & Social Services Department
Public Health and Strategy
Princess Elizabeth Hospital
Le Vauquedior
St. Martin's
Guernsey
GY4 6UU

Delivered by hand and by email to: ykaill@health.gov.gg

20th January, 2004

Dear Deputy Roffey

Re: Protecting the health of workers and the public against environmental tobacco smoke.

Thank you for your letter of 17th December, 2004 regarding the above and I apologise for the delay in responding, due to our Committee meeting only having taken place this week.

After reading the very interesting and informative document enclosed with your letter, I am pleased to advise that the Pink Ladies Committee have considered the issues raised and would support a total ban on smoking in all enclosed work and enclosed public places, as summarized in paragraphs 97 and 98 of the report.

We are delighted to have been consulted and appreciate the opportunity to put our views forward.

Yours sincerely,

Jo Allen (Mrs)
Secretary
Pink Ladies

Member of the Association of Guernsey Charities
Membership No. 252
Helpline Tel No 07781 415131 Email: PinkLadies@cwgsy.net

Contact: Mrs Jo Allen, Nigella, La Route de la Maladerie, Richmond,
St. Saviour's, GY7 9RB. Tel: 265885. Email: JoAllen@cwgsy.net

**PROTECTING THE HEALTH OF WORKERS AND THE PUBLIC
AGAINST ENVIRONMENTAL TOBACCO SMOKE**

Section 47(1) of the Public Health (Tobacco) Act, 2002 as amended by Section 16 of the Public Health (Tobacco) (Amendment) Act, 2004 prohibits the smoking of a tobacco product in a specified place

Definitions

For the purposes of Section 47 a 'specified place' is defined as including:

- (a) a place of work,
- (b) an aircraft, train, ship or other vessel, public service vehicle, or a vehicle used for the carriage of members of the public for reward other than a public service vehicle, insofar as it is a place of work,
- (c) a health premises insofar as it is a place of work,
- (d) a hospital that is not a health premises, insofar as it is a place of work,
- (e) a school or college, insofar as it is a place of work,
- (f) a building to which the public has access, either as of right or with the permission of the owner or occupier of the building, and which belongs to, or is in the occupation of-
 - (i) the State,
 - (ii) a Minister of the Government,

(iii) the Commissioners of Public Works in Ireland, or

(iv) a body established by or under an Act of the Oireachtas, insofar as it is a place of work,

(g) a cinema, theatre, concert hall or other place normally used for indoor public entertainment, insofar as it is a place of work,

(h) a licensed premises, insofar as it is a place of work, or

(i) a registered club, insofar as it is a place of work.

Exemptions

Section 47 exempts certain classes of places or premises as follows:

(a) a dwelling,

(b) a prison,

(c) subject to paragraph (d), a place or premises, or part of a place or premises, that is wholly uncovered by any roof, whether fixed or moveable,

(d) an outdoor part of a place or premises covered by a fixed or moveable roof, provided that not

more than 50 per cent of the perimeter of that part is surrounded by one or more walls or similar structures (inclusive of windows, doors, gates or other means of access to or egress from that part),

(e) a bedroom in-

(i) a premises registered under Part III of the Tourist Traffic Act 1939 in a register established and maintained under that Part,

(ii) a premises for the time being specified in a list published, or caused to be published, under section 9 of the Tourist Traffic Act 1957, or

(iii) any other premises in which a person carries on business, being a business that consists of or includes the provision, in those premises, of sleeping accommodation to members of the public,

(f) a room that, in furtherance of charitable objects, is used solely for the provision of living accommodation,

(g) in premises owned or occupied by a person whose main objects are the provision of education, a room that, in furtherance of those objects (other than objects relating to the provision of primary or secondary education), is used solely for the provision of living accommodation,

(h) a nursing home,

(i) a hospice,

(j) a psychiatric hospital, or

(k) the Central Mental Hospital.

For relevant definitions refer to a copy of the Public Health (Tobacco) Act, 2004.

Offences

Under Section 47(2) of the Public Health (Tobacco) Acts a person who smokes in contravention of subsection (1) of that section is guilty of an offence.

Under Section 47(3) of the Acts, where a person smokes in contravention of subsection (1) of that section, the occupier, manager or other person for the time being in charge of the place where the contravention occurs shall each be guilty of an offence.

Section 47(4) of the Acts establishes a defence for a person against whom proceedings are brought under Section 47(3), provided that they can demonstrate that they have made all reasonable efforts to ensure compliance with Section 47.

Under Section 5(2A) of the Acts a person found guilty of an offence under Section 47 is liable on summary conviction to a fine of up to €3,000.

(NB The Policy Council supports the proposals)

(NB The Treasury and Resources Department has no comment on the proposals)

The States are asked to decide:-

V.- Whether, after consideration of the Report dated 20th January, 2005, of the Health and Social Services Department, they are of the opinion:-

1. (1) That legislation be enacted to provide a total ban on smoking in all enclosed public places, as summarised in paragraphs 98 and 99 of that Report.
- (2) That legislation be enacted to provide a total ban on smoking in all enclosed work places as summarised in paragraphs 98 and 99 of that Report.
- (3) That exemptions, as have been accepted in Ireland, such as residential and nursing homes, prisons and psychiatric hospitals be proposed to the States in an Ordinance and be varied in future by Ordinance.
- (4) That a reasonable 'lead in' period of at least one year be given to allow landlords and restaurateurs to provide non enclosed smoking areas if they so wish.
- (5) To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

In the event of the States rejecting proposition 1 above, whether they are of the opinion-

2. (1) That legislation be enacted to provide a ban on smoking in all public places that serve food, to include all restaurants and hotels serving food, public houses and bars that serve food, cafes, snack bars, tea shops and canteens.
- (2) That a reasonable 'lead-in' period of at least one year be given to allow landlords and restaurateurs to provide non enclosed smoking areas if they so wish.
- (3) To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

HOUSE COMMITTEE

RULES OF PROCEDURE OF THE STATES OF DELIBERATION

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

3rd February 2005

Dear Sir

Executive Summary

This report proposes amendments to the Rules of Procedure of the States of Deliberation relating to the following matters:

- Convening of meetings
- Motion for Closure of Debate
- Requête
- Election of a Deputy Chief Minister
- Election of Members of Departments and Committees
- Election of Chairmen of Committees
- Debating of reports published as appendices to Billets d'État

Report

Rule 1 – Convening of Meetings

1. Rule 1(3)(c) provides that Billets d'État containing Detailed Development Plans or proposals for alteration or addition thereto must be published not less than 30 clear days before the States meeting.
2. The House Committee has received representations to the effect that Policy & Resource Plans and Strategic & Corporate Plans should also be issued at least 30 days prior to the meeting. These plans and the annual budget are now debated at the same meeting of the States which means that Members invariably have a considerable amount of important and detailed information to digest in a relatively short period. It is understood that no particular difficulty would arise

if Billets d'État containing Policy & Resource Plans and Strategic & Corporate Plans were issued at least 30 days in advance of the States meeting.

3. The Committee therefore recommends that Rule 1(3)(c) be deleted and the following substituted therefor:

“not less than 30 clear days in the case of a Billet d'État containing:

- (i) a Detailed Development Plan or a proposal for alteration or addition thereto and the report of an Inspector which is laid before the States in accordance with section 12 of the Island Development (Guernsey) Law, 1966 (other than a case where the procedure envisaged by Rule 13 (9) has already been followed);*
- (ii) a Policy and Resource Plan; or*
- (iii) a Strategic and Corporate Plan or a proposal for alteration or addition thereto,”*

Rule 14(1) – Motion for Closure of Debate

4. Rule 14(1) provides that a Member may at any time request the Presiding Officer to test the mind of the States as to whether the debate underway should be closed. If two-thirds or more of the Members present vote in favour of closure the debate is terminated.
5. Whilst this rule has been used less frequently since the last General Election it remains, nonetheless, a useful provision but the Committee is of the opinion that a minor amendment is required to ensure its proper use. It is not unknown for a Member, soon after addressing the States, to propose the motion for closure. The Committee considers this to be bad practice and consequently proposes that closure motions should only be proposed by Members who have not already spoken in the debate.
6. The Committee therefore recommends that in Rule 14(1) after the words “*A Member*” the words “*who has not already spoken in the debate, otherwise than in pursuance of Rule 12(1) or 12(6),*” be added.

Rule 17 - Requêtes

7. Rule 17 determines the procedure to be followed in the debating of requêtes. Rule 17(3) states that the Chief Minister and the Minister or Chairman of each Department or Committee consulted by the Policy Council with regard to the requête shall be entitled to speak ‘if he has not already spoken thereon’, before the mover of the requête replies to the debate.

8. In the debate on the energy from waste facility requête the Minister of the Environment Department sought leave of the States (pursuant to the proviso to Rule 12(3)) to speak twice, that is an initial speech and a reply to the debate. An appel nominal was required to determine the mind of the States regarding that request.
9. The Committee is of the view that some requêtes, such as the one referred to in the previous paragraph, can have an important impact on States policies and is, therefore, strongly of the opinion that the Chief Minister and the Minister or Chairman of each Department or Committee consulted should have an automatic right to two speeches, that is an opening speech and a reply to the debate.
10. The Committee therefore recommends –
 - (1) that Rule 17(3) be deleted and the following substituted therefor:

“When a requête is laid before the States, the Chief Minister and the Minister or Chairman of each of the Departments or Committees referred to in the preceding paragraph shall be entitled to speak

(a) immediately after the mover of the requête has opened the debate, and

(b) immediately before the mover of the requête replies to the debate.”
 - (2) that a consequential amendment be made to Rule 12(3) by inserting the words “*or pursuant to Rule 17(3)(b)*” after the word “*debate*”.

Rule 20(5) – Election of a Deputy Chief Minister

11. With regard to the election of a Deputy Chief Minister, provision is made in the rules for speeches by the proposers of the candidates but not by the candidates themselves. The Committee believes that this office should be considered of the same importance as that of minister and that, accordingly, the candidates should also have the right to address the States.
12. The Committee therefore recommends that Rule 20(5) be deleted and that in Rule 20(4) after the words “*elect a Minister*” the words “*or a Deputy Chief Minister*” shall be added.

Rule 20(6) – Election of Members of Departments and Committees

13. Rule 20(6) sets out the procedure to be followed in the election of members of departments and committees. One of the provisions is that if there are more

candidates than vacancies the Presiding Officer shall invite the proposers to speak 'for not more than 5 minutes each'. At the elections in May 2004 the Presiding Officer interpreted the words in quotation marks to mean that a minister proposing four members could only speak for a total of five minutes, not five minutes per candidate.

14. The House Committee is of the view that the original intention of the States was that proposers of candidates should be able to speak for up to five minutes in respect of each candidate proposed. It accepts, however, that the rule as presently drafted is ambiguous and therefore recommends that Rule 20(6) be re-worded as follows: *"the Presiding Officer shall invite each proposer to speak, for not more than 5 minutes in respect of each candidate proposed by him, before voting takes place."*

Election of Chairmen of Committees

15. The current rules make no provision for the election of chairmen of committees. This was simply a drafting omission and the House Committee therefore recommends that a new rule be added after Rule 20(4), as follows:

(5) *On a proposition to elect a Chairman of a Committee the Presiding Officer shall invite Members to propose eligible candidates. Nobody shall speak about a candidate at that stage; and if only one candidate is proposed and seconded the Presiding Officer shall put the election of that candidate to the vote, without speeches. If there is more than one candidate the Presiding Officer shall invite the proposers and the candidates to speak for not more than 5 minutes each before voting takes place; and no member other than a proposer or candidate shall be entitled to speak."*

16. If the recommendation in paragraph 12 is not approved it will be necessary to re-number existing rules 20(5) and 20(6) as 20(6) and 20(7) respectively.

Provisions relating to the debating of reports published as appendices to Billets d'État

17. At present the rules make no provision for reports published as appendices to Billets d'État other than Rule 17(4) which makes specific reference to requêtes asking that such reports be debated. This provision has seldom, if indeed ever, been used.
18. During the October 2004 session of the States a Member sought the suspension of the rules to allow a certain report published as an appendix to the October Billet d'État to be debated. Following an assurance given by the Minister of the department concerned that it would bring the matter back to the States for debate the Member withdrew the proposition for the suspension of the rules.

19. The Committee is not surprised that Rule 17(4) has not been used as it lacks immediacy. Using the requête system requires a minimum of 60 days notice. Thus, in the case referred to above, the Billet d'État was published on 8 October and the December States Meeting was on 8 December. It would have been almost impossible to draft a requête and find signatories within a few hours in order to comply with the 60 day rule for a December debate. Realistically, therefore, the earliest that the report in question could have been debated pursuant to Rule 17(4) would have been almost four months after publication.
20. There are certain similarities between the debating of an appendix report and motions to annul a Statutory Instrument or Ordinance laid before the States (that is an Ordinance made by the Legislation Select Committee). Ordinances and Statutory Instruments so laid before the States are only debated if Members wish to oppose them.
21. The House Committee considers that a rule should be introduced which provides an accessible mechanism for reports published as appendices to be debated. The draft rule set out in paragraph 23 seeks to strike a balance between, on the one hand, giving Members an opportunity to debate an appendix report and, on the other hand, preventing such a debate from being used to direct policy matters which may not have been considered by the department or committee which presented the report.
22. For that reason, therefore, it is proposed that debating appendix reports would be a two stage process. First, the States would be asked to decide whether the report should be debated. That would be dealt with as a procedural motion and only the proposer of the motion and the Minister or Chairman of the Department or Committee concerned would be allowed to speak thereon. Second, if the States voted to debate the report the Minister or Chairman would open and close the debate in the normal way and the proposer of the procedural motion would not be afforded a right to speak more than once in the debate. The proposition would be "To take note of the Report" and it would not be open to Members either to propose a sursis or any amendment. The Committee believes that these precautions are necessary to prevent a report, the object of which is simply to inform the States, from being used as a tool to determine policy.
23. The Committee therefore proposes that a new rule be inserted after Rule 20, as follows:

"21. (1) This rule applies to any report of a Department or Committee published as an appendix to a Billet d'État.

(2) Every motion to debate an appendix report must be in writing and must state the names of its proposer and seconder.

- (3) *A Member who proposes to move a motion to debate an appendix report must furnish the proposed motion to the Presiding Officer and copies thereof to –*

- (a) the Chief Minister,*
- (b) the Minister or Chairman of the Department or Committee concerned with the appendix report to which the motion relates,*
- (c) H. M. Procureur, and*
- (d) the Greffier*

not later 5 clear days (excluding Saturdays, Sundays and Public Holidays) before the meeting of the States at which the motion is proposed to be moved. Immediately after the closing date for the receipt of such motions the Greffier shall cause a copy thereof to be delivered to every member.

- (4) *When notice of a motion to debate an appendix report has been given in accordance with paragraph (3), the Presiding Officer shall, immediately after the conclusion of the ordinary business listed for debate in the Billet d'État containing the appendix report to which the motion relates, invite*

- (a) the proposer of the motion to speak thereon;*
- (b) the seconder to formally second the motion, but not speak thereon;*
- (c) the Minister or Chairman of the Department or Committee concerned to speak on the matter*

following which, without further debate, the Presiding Officer shall immediately put the said motion to the vote.

- (5) *If the motion to debate an appendix report is carried –*

- (a) the Minister or Chairman of the Department or Committee concerned shall open the debate on the appendix report concerned and he shall reply to the debate;*

- (b) *the proposer and seconder of the motion to debate an appendix report shall not speak more than once in the debate;*
- (c) *the proposition shall be "To take note of the Report";*
- (d) *no Member shall propose a sursis of the debate or amendment of the proposition."*

24. As a consequence it will be necessary to re-number existing rules 21-27 as 22-28 respectively, and in Schedule 1 to replace reference to "Rule 22" with "Rule 23".

Recommendations

The House Committee recommends the States to agree that the Rules of Procedure of the States of Deliberation be amended, as follows, with immediate effect:

- (1) Delete Rule 1(3)(c) and substitute therefor:

"not less than 30 clear days in the case of a Billet d'État containing:

 - (i) a Detailed Development Plan or a proposal for alteration or addition thereto and the report of an Inspector which is laid before the States in accordance with section 12 of the Island Development (Guernsey) Law, 1966 (other than a case where the procedure envisaged by Rule 13 (9) has already been followed);
 - (ii) a Policy and Resource Plan; or
 - (iii) a Strategic and Corporate Plan or a proposal for alteration or addition thereto,";
- (2) In Rule 14(1) after the words "A Member" insert the words "who has not already spoken in the debate, otherwise than in pursuance of Rule 12(1) or 12(6),";
- (3) (i) Delete Rule 17(3) and substitute therefor:

"When a requête is laid before the States, the Chief Minister and the Minister or Chairman of each of the Departments or Committees referred to in the preceding paragraph shall be entitled to speak

- (a) immediately after the mover of the requête has opened the debate, and
 - (b) immediately before the mover of the requête replies to the debate.”;
- (ii) In Rule 12(3) after the word “debate” insert the words “or pursuant to Rule 17(3)(b);
- (4) Delete Rule 20(5) and in Rule 20(4) after the words “elect a Minister” insert the words “or a Deputy Chief Minister”;
- (5) In Rule 20(6) replace the words “the Presiding Officer shall invite the proposers to speak for not more than 5 minutes each before voting takes place” with “the Presiding Officer shall invite each proposer to speak, for not more than 5 minutes in respect of each candidate proposed by him, before voting takes place”;
- (6) After Rule 20(4) add

“(5) On a proposition to elect a Chairman of a Committee the Presiding Officer shall invite Members to propose eligible candidates. Nobody shall speak about a candidate at that stage; and if only one candidate is proposed and seconded the Presiding Officer shall put the election of that candidate to the vote, without speeches. If there is more than one candidate the Presiding Officer shall invite the proposers and the candidates to speak for not more than 5 minutes each before voting takes place; and no other member other than a proposer or candidate shall be entitled to speak.”;
- (7) After Rule 20 add

“21. (1) This rule applies to any report of a Department or Committee published as an appendix to a Billet d’État.

(2) Every motion to debate an appendix report must be in writing and must state the names of its proposer and seconder.

(3) A Member who proposes to move a motion to debate an appendix report must furnish the proposed motion to the Presiding Officer and copies thereof to —

 - (a) the Chief Minister,

- (b) the Minister or Chairman of the Department or Committee concerned with the appendix report to which the motion relates,
- (c) H. M. Procureur, and
- (d) the Greffier

not later 5 clear days (excluding Saturdays, Sundays and Public Holidays) before the meeting of the States at which the motion is proposed to be moved. Immediately after the closing date for the receipt of such motions the Greffier shall cause a copy thereof to be delivered to every member.

- (4) When notice of a motion to debate an appendix report has been given in accordance with paragraph (3), the Presiding Officer shall, immediately after the conclusion of the ordinary business listed for debate in the Billet d'État containing the appendix report to which the motion relates, invite

- (a) the proposer of the motion to speak thereon;
- (b) the seconder to second the motion, but not speak thereon;
- (c) the Minister or Chairman of the Department or Committee concerned to speak on the matter

following which, without further debate, the Presiding Officer shall immediately put the said motion to the vote.

- (5) If the motion to debate an appendix report is carried –

- (a) the Minister or Chairman of the Department or Committee concerned shall open the debate on the appendix report concerned and he shall reply to the debate;
- (b) the proposer and seconder of the motion to debate an appendix report shall not speak more than once in the debate;
- (c) the proposition shall be “To take note of the Report”;

- (d) no Member shall propose a sursis of the debate or amendment of the proposition.”;
- (8) Re-number Rules 21 to 27 as 22 to 28 respectively and in Schedule 1 replace the words and figures “Rule 22” with “Rule 23”.

I would be grateful if you would lay this matter before the States with appropriate propositions.

Yours faithfully

D P Le Cheminant
Chairman

(NB The Policy Council supports the proposals)

(NB The Treasury and Resources Department has no comment on the proposals)

The States are asked to decide:-

VI.- Whether, after consideration of the Report dated 3rd February, 2005, of the House Committee, they are of the opinion:-

That the Rules of Procedure of the States of Deliberation be amended, as follows, with immediate effect:-

1. Delete Rule 1(3)(c) and substitute therefore:

“not less than 30 clear days in the case of a Billet d’État containing:

- (i) a Detailed Development Plan or a proposal for alteration or addition thereto and the report of an Inspector which is laid before the States in accordance with section 12 of the Island Development (Guernsey) Law, 1966 (other than a case where the procedure envisaged by Rule 13 (9) has already been followed);
- (ii) a Policy and Resource Plan; or
- (iii) a Strategic and Corporate Plan or a proposal for alteration or addition thereto,”.

2. In Rule 14(1) after the words “A Member” insert the words “who has not already spoken in the debate, otherwise than in pursuance of Rule 12(1) or 12(6).”.
3. (i) Delete Rule 17(3) and substitute therefor:

“When a requête is laid before the States, the Chief Minister and the Minister or Chairman of each of the Departments or Committees referred to in the preceding paragraph shall be entitled to speak

 - (a) immediately after the mover of the requête has opened the debate, and
 - (b) immediately before the mover of the requête replies to the debate.”;

(ii) In Rule 12(3) after the word “debate” insert the words “or pursuant to Rule 17(3)(b).”.
4. Delete Rule 20(5) and in Rule 20(4) after the words “elect a Minister” insert the words “or a Deputy Chief Minister”.
5. In Rule 20(6) replace the words “the Presiding Officer shall invite the proposers to speak for not more than 5 minutes each before voting takes place” with “the Presiding Officer shall invite each proposer to speak, for not more than 5 minutes in respect of each candidate proposed by him, before voting takes place”.
6. After Rule 20(4) add

“(5) On a proposition to elect a Chairman of a Committee the Presiding Officer shall invite Members to propose eligible candidates. Nobody shall speak about a candidate at that stage; and if only one candidate is proposed and seconded the Presiding Officer shall put the election of that candidate to the vote, without speeches. If there is more than one candidate the Presiding Officer shall invite the proposers and the candidates to speak for not more than 5 minutes each before voting takes place; and no other member other than a proposer or candidate shall be entitled to speak.”.
7. After Rule 20 add

“21. (1) This rule applies to any report of a Department or Committee published as an appendix to a Billet d’État.

(2) Every motion to debate an appendix report must be in writing and must state the names of its proposer and seconder.

- (3) A Member who proposes to move a motion to debate an appendix report must furnish the proposed motion to the Presiding Officer and copies thereof to –

- (a) the Chief Minister,
- (b) the Minister or Chairman of the Department or Committee concerned with the appendix report to which the motion relates,
- (c) H. M. Procureur, and
- (d) the Greffier

not later 5 clear days (excluding Saturdays, Sundays and Public Holidays) before the meeting of the States at which the motion is proposed to be moved. Immediately after the closing date for the receipt of such motions the Greffier shall cause a copy thereof to be delivered to every member.

- (4) When notice of a motion to debate an appendix report has been given in accordance with paragraph (3), the Presiding Officer shall, immediately after the conclusion of the ordinary business listed for debate in the Billet d'État containing the appendix report to which the motion relates, invite

- (a) the proposer of the motion to speak thereon;
- (b) the seconder to second the motion, but not speak thereon;
- (c) the Minister or Chairman of the Department or Committee concerned to speak on the matter

following which, without further debate, the Presiding Officer shall immediately put the said motion to the vote.

- (5) If the motion to debate an appendix report is carried –

- (a) the Minister or Chairman of the Department or Committee concerned shall open the debate on the appendix report concerned and he shall reply to the debate;
- (b) the proposer and seconder of the motion to debate an appendix report shall not speak more than once in the debate;
- (c) the proposition shall be “To take note of the Report”;

- (d) no Member shall propose a sursis of the debate or amendment of the proposition.”.
8. Re-number Rules 21 to 27 as 22 to 28 respectively and in Schedule 1 replace the words and figures “Rule 22” with “Rule 23”.

ORDINANCE LAID BEFORE THE STATES

**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER
YUGOSLAVIA (FREEZING OF FUNDS AND ECONOMIC RESOURCES OF
INDICTEES) (GUERNSEY) ORDINANCE, 2005**

In pursuance of the provisions of the proviso to Article 66(3) of the Reform (Guernsey) Law, 1948, as amended, the International Criminal Tribunal for the Former Yugoslavia (Freezing of Funds and Economic Resources of Indictes) (Guernsey) Ordinance, 2005 made by the Legislation Select Committee on 14th February, 2005, is laid before the States.

STATUTORY INSTRUMENT LAID BEFORE THE STATES

**THE DRIVING TESTS AND DRIVING LICENCES
(INCREASE OF FEES) REGULATIONS, 2004**

In pursuance of section 2B (e) of the Motor Taxation and Licensing (Guernsey) Law, 1987, The Driving Tests and Driving Licences (Increase of Fees) Regulations, 2004, made by the Environment Department on 23rd December, 2004, are laid before the States.

EXPLANATORY NOTE

These regulations set the fees that are chargeable for tests of competence to drive and driving licences with effect from 1st March, 2005, by increasing approximately by RPI the current fees that are set out in Schedule 2 and Schedule 3 respectively of the Driving Licences (Guernsey) Ordinance, 1995, as amended.

EDUCATION DEPARTMENT**NOTRE DAME DU ROSAIRE PRIMARY SCHOOL: VALIDATION REPORT**

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

12th January 2005

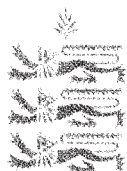
Dear Sir

I enclose a copy of the summary of the validation report and the Education Department's response for the above school. I shall be grateful if you will arrange for this to be published as an appendix to the Billet d'État for March 2005.

Copies of the full report will be made available for any member of the public to inspect at both the school and the Education Department.

Yours faithfully,

Deputy M A Ozanne
Minister



EDUCATION

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Education Department
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St. Peter Port
Guernsey
GY1 1RQ
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Response to the Validation Report

On

Notre Dame du Rosaire Primary School

The Board of the Education Department is pleased that the school was commended for its planning of the self evaluation process.

The Board is pleased to note that Notre Dame du Rosaire Primary School continues to provide a good standard of education for its children. It has sustained momentum since the last inspection, and the headteacher and his staff have successfully implemented a number of recommendations and new initiatives. The Board is also pleased to record that the staff, pupils and their parents work hard and flexibly to overcome the significant problems of the split-site accommodation.

The school has made excellent provision for the spiritual, moral, social and cultural development of the pupils and for their support guidance and welfare.

The school has developed strong relationships with its parents and the local community. The returns from the questionnaire express a generally high level of satisfaction with, and confidence in, the work of the school.

Since the last inspection in 1999, the staff has made good progress in a number of areas. 91% of the lessons were judged to be of a satisfactory standard or better, a commendable 50% of which, contained good or excellent features. In the best lessons, planning is thorough, clear objectives are shared and children have opportunities to take initiatives and responsibilities. Good provision is generally made for lower attaining children with special educational needs. The school meets the requirements of the National Curriculum (Guernsey).

The school's self evaluation and the Validation report have clearly identified its strengths and areas for development. The Board is pleased that the school acknowledges these and they will be addressed through action plans within the Annual School Improvement Planning process.

Key issues identified are:

- The establishment of a prioritised School Improvement Plan
- The establishment of clearly defined senior management roles and job descriptions
- The consistent application of whole school policies, particularly on marking, assessment and target setting to ensure that children of all abilities work to their full potential.

**ISLANDS' FEDERATION FOR THE EVALUATION OF SCHOOLS
(IFES)**

CONFIDENTIAL

Summary of the Validation Report

NOTRE DAME DU ROSAIRE PRIMARY SCHOOL

GUERNSEY

JUNE 2004

SUMMARY OF THE VALIDATION REPORT

NOTRE DAME DU ROSAIRE RC PRIMARY SCHOOL

Notre Dame du Rosaire RC Primary is a voluntary Roman Catholic school serving the population of St Peter Port and the south of the island.

There are 225 pupils on roll, 111 boys and 114 girls, aged from 4 to 11 who are taught in 10 classes.

At present the infants and Year 3 pupils are accommodated in the St Joseph's building (6 classes with 135 pupils). Years 4 to 6 are in the Notre Dame building (4 classes with 90 pupils). There are plans to reunite the school on the Burnt Lane site in due course.

Background

The validation team consisted of five inspectors. Four were Ofsted inspectors from the UK and one was an IFES trained headteacher from Jersey. The team leader met informally with the headteacher on the Sunday before the validation and the team then spent four days inspecting the school.

The school provided comprehensive documentation and its self review report in advance of the visit, having spent a year working on its self-evaluation activities. Additional information, such as children's work, videos and portfolios of other evidence, was scrutinised by the team during the week. The school received appropriate support from the Education Department's officers during the review period. Most staff had attended the Education Department's IFES Internal Evaluator training course on how to carry out a self-review.

The evidence base to validate the school's findings was collected through :

- * scrutiny of a range of whole school and subject documentation, including School Improvement Plans since the last inspection, minutes of meetings and SATs results; information and evidence about standards and progress had been provided from the last three years;
- * observation of 68 whole or part lessons;
- * examination and discussion of teachers' planning;
- * attendance at assemblies and some extra curricular activities;

- * examination of pupils' current and previous work;
- * approximately 14 hours of planned discussions with teachers and other staff, pupils and parents;
- * observation of pupils on arrival and departure from the school and at other times around the buildings and grounds;
- * scrutiny of 20 letters and 96 returns from the confidential parental questionnaire.

At the end of the week, subject leaders received an oral feedback on their areas of responsibility, and the team's main findings were reported to the headteacher and his SMT, and to the Director of Education.

Main Findings

- * Notre Dame Primary School continues to provide a good standard of education for its children. It has sustained momentum since the last inspection, and the headteacher and his staff have successfully implemented a number of recommendations and new initiatives.
- * The school's self evaluation process was well planned and organised. The headteacher utilised his own wide experience of VSSE to good effect, and staff conducted the review in a thoroughly professional manner. The internal report provides a valuable audit of existing strengths and areas for development which will greatly assist the determining of priorities in the next school improvement plan (SIP).
- * Children are happy at school, and work diligently within a calm, caring, well-ordered, and Christian ethos.
- * Standards of teaching, learning and attainment are improving steadily, particularly at KS2. The school has wisely adopted the Foundation Stage Profile to help identify progress with the youngest children. In Key Stage 1 tests, significant improvements have been achieved with pupils attaining level 3, although pupils' writing needs further attention. At Key Stage 2, the overall SATs results for 2003 are higher than the Guernsey average for all subjects, particularly at level 5 for English and science.
- * During the validation week 68 lessons were observed. Of these, 91% were judged to be of at least satisfactory standard, and a commendable 50% were of good or excellent quality. This is better than the figures at the time of the last inspection in 1999 when they were 87% and 30% respectively.

- * Particularly good lessons were observed in mathematics, literacy, music, history, geography, design technology and swimming, many of these in Key Stage 2. The best lessons are characterised by well focused planning, the sharing of clear learning objectives, opportunities for children to take initiatives and responsibilities, appropriate pace, activities matched to all levels of ability, and plenary sessions which allow for recap and assessment of progress.
- * The school meets the requirements of the National Curriculum (Guernsey). Good progress has been made since 1999 in the areas of planning, the development of subject leader roles, monitoring work, the revision of schemes of work, the use of ICT, and the introduction of the Foundation Stage curriculum and the National Literacy and Numeracy Strategies.
- * The amount of curriculum time devoted of necessity to RE, reduces the allocations for the foundation subjects, and further attention is needed to plan cross-curricular links in order to compensate and assist with continuity. RE was not inspected during the validation.
- * A number of positive developments have occurred in assessment, recording and reporting since the last validation, and there are good examples in a number of classes and subjects. However, practices are variable and the school's policies are inconsistently applied in areas such as marking, analysis and use of assessment data, target setting, tracking of progress and the standardisation of records. Reports to parents are comprehensive and informative. The roles of the staff with shared responsibility for the co-ordination of ARR would benefit from clearer definition.
- * The school implements the Guernsey Code of Practice for special educational needs (SEN) and generally makes good provision for its pupils. Effective links have been established with a number of support agencies, and good support is organised for the 20% of children from a Portuguese background. There are considerable pressures on the time of the SENCO who is also the deputy head and a full time class teacher in the lower school.
- * Excellent provision is made for the spiritual, moral, social and cultural development of the pupils, and for their support, guidance and welfare. These areas continue to be major strengths of the school. Standards of behaviour are very high, particularly at KS2, relationships in the school are good, and pupils have positive attitudes towards their work. The establishment of a School Council of elected pupils is proving to be highly successful.

- * The school has forged a successful partnership with parents and the local community. Good support is received from the Chair of the Board of Managers and the parish. The returns from the parental questionnaire (Appendix A) show a very high degree of satisfaction with the work of the school. Communications are effective via regular meetings and weekly newsletters. The PTFA raises generous extra funding for the school on an annual basis.
- * In the Foundation Stage, the curriculum is well planned across the six areas of learning, and the Foundation Profile records individual progress over time. The newly appointed leader for this stage will need to make sure that methods of teaching meet children's needs more effectively, and establish stronger links with Key Stage 1.
- * The school is well led and managed. Members of the senior management team (SMT) and other staff have attended relevant training courses to strengthen their management skills. There are clear expectation of subject leaders, strengthened planning and monitoring procedures, and weekly and minuted SMT and staff meetings.
- * Although all staff are involved in the drawing up and implementation of the SIP, there is a need for targets to be prioritised, with progress checked and overseen by designated members of the SMT to avoid slippage. Roles and job descriptions at senior management level need sharper definition in order to facilitate curriculum leadership, and to assist with addressing the more consistent application of school policies on areas such as marking, assessment, homework and ICT, the continued enhancement of subject leader influence, and the analysis and use of assessment data to develop target setting for pupils of all abilities, particularly the most able.
- * Although the split site accommodation causes significant difficulties for the school in terms of communication and the most efficient use of staff time and resources, good use is generally made of the available teaching and non-teaching staff and the buildings. The proposed relocation of the school onto the upper school site is eagerly awaited. There are sufficient learning resources to meet the needs of the National Curriculum (Guernsey), although the paucity of storage and teaching space adversely affects some aspects of work in science, music, art and PE.
- * The school office is located at the upper school and the administrative assistant provides a highly efficient service. Financial systems are well organised and there is good oversight of budget spending. Subject leaders utilise their delegated funding well. Both school sites are well cleaned and maintained. The school makes good use of necessary outside facilities such as the Vauvert swimming pool, Cambridge Park and the local Leisure Centre. There is a need to address the issue of security and access to the lower school site.

Key Issues that the School Needs to Address

- * The school's internal report highlights a number of important areas for future attention, and these are endorsed by the validation team. They include the rationalisation of existing subject leader posts and the further enhancement of their roles, better use of ICT and assessment data through SIMS, achievement of the intended Healthy School s Status, and completion of preparations for the impending Diocesan inspection and validation.
- * In addition, the headteacher and staff should continue to advance the progress of the school through increased focus upon :
 - the establishment of a prioritised SIP;
 - the establishment of clearly defined senior management roles and job descriptions, with designated responsibilities for curriculum leadership, and for overseeing and checking progress towards meeting the SIP's declared targets;
 - the consistent application of whole school policies, particularly on marking, assessment, and target setting to ensure that pupils of all abilities work to their full potential.

The school is responsible for drawing up an action plan after receiving the Report, showing what it is going to do about the issues raised and how it will incorporate them in the school's Improvement Plan.

A follow-up visit to the school will be made in summer 2005 in order to monitor and discuss the progress the school has made, and a written report will be made to the Director of Education.

GUERNSEY RETAIL PRICES INDEX

4.9% annual change as at 31 December 2004

At the end of December, Guernsey's annual rate of inflation, as measured by changes in the Index of Retail Prices, was 4.9% compared with 5.2% at the end of the previous quarter.

RPI X, the rate of inflation that excludes mortgage interest payments stands at 2.9%

Table 1

Period	%	Period	%
3 Months	0.7	2 Years	9.0
6 Months	1.7	3 Years	13.9
9 Months	2.7	4 Years	16.0
12 Months	4.9	5 Years	20.5

The Index Figures at the end of December 2004 were:

120.5 (Dec 99=100)
 143.0 (Mar 1994 =100)
 193.2 (Dec 1988 =100)
 258.2 (Dec 1983 =100)
 410.0 (Dec 1978 =100)

Thursday
 20 January 2004

Issued by:
 Policy and Research Unit
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Matters affecting the R.P.I during the last year

The major contributors to the December 2004 figure over the past **12 months** were Housing (2.8% out of 4.9%), Fuel, Light and Power (0.5%), Motoring (0.4%), Leisure Services (0.3%) and Food Away from Home (0.4%).

The Housing group was again the largest contributor at 2.8% out of 4.9%. The cost of servicing the average mortgage debt has increased by over 30% over this period. However, only small increases were recorded in the quarter from September to December as interest rates remained unchanged by the Bank of England, and local house prices have increased only marginally.

The Fuel, Light and Power group contributed 0.5% which was mainly due to the effects of the increase in the price of oil between December 2003 and September 2003, which in turn has pushed up the price of heating oil and gas. The increase in the motoring group was mainly due to the increase in petrol. Although price increases have reversed since September, the annual change from December 2003 shows a positive rise.

Small decreases were observed in the Household Goods, Clothing, and Fares and Other Travel Groups.

Matters affecting the R.P.I during the last three months

The main contributors to inflation over the last **three months** were: gas prices, and certain food items, such as fresh fruit and frozen fish. Decreases were observed in oil prices and petrol prices. Seasonal decreases were also noted in the alcohol purchased for consumption at home category.

Annual % Changes for each quarter

Table 2

	March	June	September	December
1991	8.6	8.7	6.1	5.5
1992	4.6	4.1	3.6	3.2
1993	2.3	1.5	1.8	1.4
1994	2.9	2.3	2.0	2.4
1995	3.0	3.5	4.0	3.6
1996	2.5	2.1	2.0	2.8
1997	3.1	4.0	4.4	4.7
1998	4.1	4.0	4.0	3.2
1999	2.1	2.2	1.8	2.4
2000	3.8	4.4	4.5	3.9
2001	3.3	2.3	2.6	1.9
2002	2.9	3.3	3.9	4.4
2003	4.7	4.3	3.3	3.9
2004	4.2	4.5	5.2	4.9

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GUERNSEY RETAIL PRICES INDEX - DECEMBER 2004

PERCENTAGE CHANGES IN GROUP INFLATION AND THEIR CONTRIBUTION TO OVERALL INFLATION

Table 3 **GUERNSEY INFLATION RATE (+4.9%)**

	Weight	Quarterly %Change	Annual %Change	% Contribution
Food	127	0.6	1.6	0.2
Alcoholic Drink	52	-0.9	4.0	0.2
Tobacco	19	-0.1	5.0	0.1
Housing	216	0.9	11.9	2.8
Fuel, Light and Power	41	4.3	12.4	0.5
Household Goods	79	0.4	-0.7	-0.1
Household Services	33	0.1	4.2	0.2
Clothing & Footwear	56	1.6	-3.8	-0.2
Personal Goods	49	0.1	1.6	0.1
Motoring Expenditure	85	-0.9	4.2	0.4
Fares/Other Travel	33	-1.4	-1.6	-0.1
Leisure Goods	63	2.3	1.6	0.1
Leisure Services	92	0.4	3.1	0.3
Food Away from Home	55	0.3	5.8	0.4
Overall	1000			
All Items				4.9

Weight is the proportion of the total index represented by each group. **Contribution** shows the effect of price changes in relation to the relative weight of the groups.

Retail Prices Index (RPI)

The RPI is a measure of inflation in Guernsey. It can be defined as "an average measure of change in the prices of goods and services bought for the purpose of consumption by the vast majority of households" (RPI Technical Manual, Office for National Statistics, 1998).

Goods and services that consumers purchase have a price, and these will vary over time. The RPI is designed to measure such changes. Imagine a very large shopping basket (over 2100 items) comprising all the different kinds of goods and services bought by a typical household. As the prices of individual items in this basket vary, the total cost of the basket will vary - the RPI is a measure of the change from quarter to quarter in this total cost.

No two households spend their money in exactly the same way and this basket of goods is compiled using spending pattern data from the Household Expenditure Survey. This is carried out every five years, hence the RPI index base is reset to 100 e.g. Dec 1999 = 100, Mar 1994 = 100 etc. The RPI while not applying precisely to any one household or person, will be close to the experience of inflation for the great majority of households.

GUERNSEY RETAIL PRICES INDEX - DECEMBER 2004

Figure 1

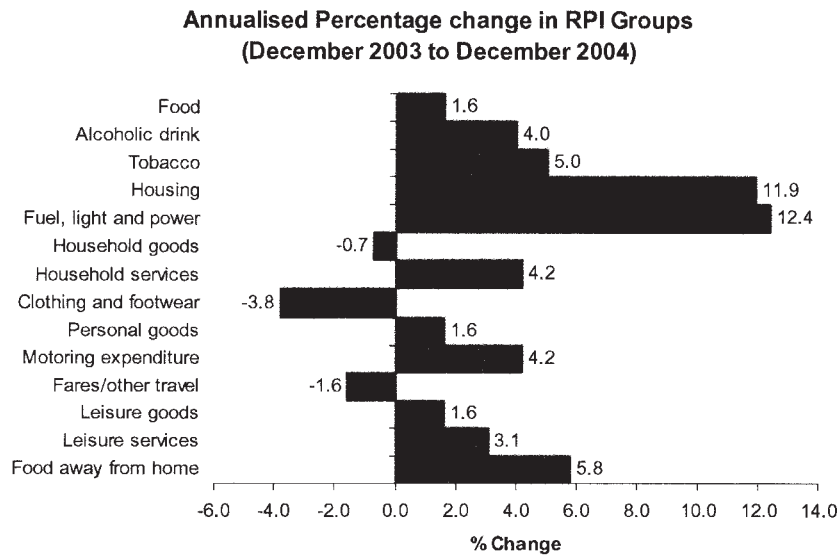
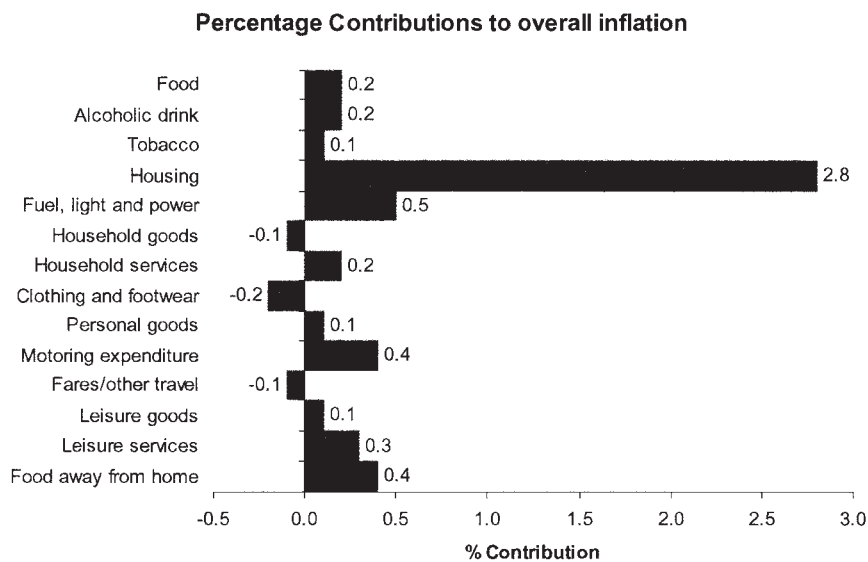
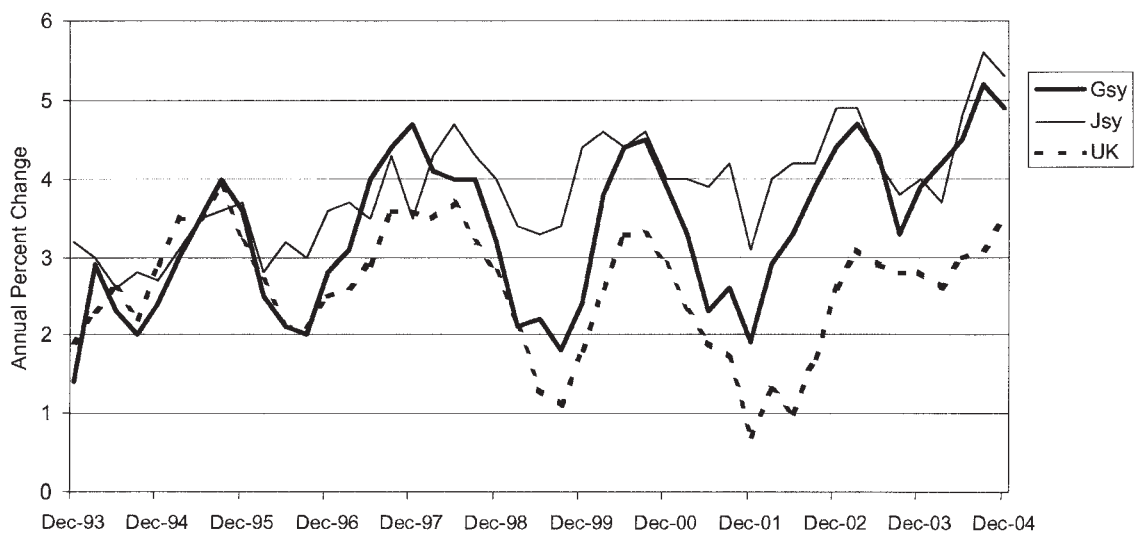


Figure 2



Annual Rate of Headline Inflation - Guernsey, Jersey and the UK



GUERNSEY RETAIL PRICES INDEX - DECEMBER 2004

RPI comparison with Jersey and the UK

Guernsey and Jersey tend to run at a higher rate than the UK. The chart on page 3 (figure 3) shows that inflation in Guernsey followed the general trends of the UK inflation rate, albeit at a higher level until 2003 when the trend changed.

Table 4

		Annual Movements						Quarterly Movements		
		Guernsey		UK		Jersey		Guernsey	UK	Jersey
		Headline	RPI X	Headline	RPI X	Headline	RPI X	Headline	RPI	
1998	Mar	4.1	2.3	3.5	2.6	4.3	3.8	0.9	0.5	1.7
	June	4.0	2.3	3.7	2.8	4.7	4.1	0.9	1.6	1.2
	Sept	4.0	2.6	3.2	2.5	4.3	3.9	1.0	1.0	0.9
	Dec	3.2	2.2	2.8	2.6	4.0	3.9	0.4	0.0	0.2
1999	Mar	2.1	2.6	2.1	2.7	3.4	3.6	-0.2	-0.2	1.1
	June	2.2	3.1	1.3	2.2	3.3	3.6	1.0	0.9	1.1
	Sept	1.8	3.0	1.1	2.1	3.4	3.6	0.4	0.5	0.9
	Dec	2.4	2.8	1.8	2.2	4.4	4.3	1.1	0.7	1.1
2000	Mar	3.8	3.1	2.6	2.0	4.6	4.3	1.2	0.3	1.3
	June	4.4	3.6	3.3	2.2	4.4	4.0	1.6	1.6	1.0
	Sept	4.5	3.5	3.3	2.2	4.6	4.2	0.7	0.4	1.1
	Dec	3.9	3.8	2.9	2.0	4.0	3.4	0.5	0.3	0.5
2001	Mar	3.3	2.9	2.3	1.9	4.0	3.6	0.6	0.0	1.4
	June	2.3	2.7	1.9	2.4	3.9	3.8	0.8	1.3	0.9
	Sept	2.6	3.1	1.7	2.3	4.2	4.2	0.8	0.1	1.3
	Dec	1.9	2.9	0.7	1.9	3.1	3.6	-0.1	-0.7	-0.6
2002	Mar	2.9	3.8	1.3	2.3	4.0	4.4	1.6	0.6	2.3
	June	3.3	3.6	1.0	1.5	4.2	4.4	1.0	1.0	1.1
	Sept	3.9	3.8	1.7	2.1	4.2	4.2	1.4	0.8	1.3
	Dec	4.4	3.8	2.9	2.7	4.9	4.5	0.4	0.5	0.1
2003	Mar	4.7	4.3	3.1	3.0	4.9	4.8	1.9	0.8	2.4
	June	4.3	3.8	2.9	2.8	4.2	4.6	0.6	0.8	0.4
	Sept	3.3	3.1	2.8	2.8	3.8	4.4	0.4	0.7	0.9
	Dec	3.9	3.4	2.8	2.6	4.0	4.0	1.0	0.5	0.3
2004	Mar	4.2	3.2	2.6	2.1	3.7	3.5	2.2	0.6	2.1
	June	4.5	3.1	3.0	2.3	4.8	3.4	0.9	1.2	1.5
	Sept	5.2	2.9	3.1	1.9	5.6	3.3	1.1	0.8	1.7
	Dec	4.9	2.9	3.5	2.5	5.3	3.4	0.7	1.0	0.0

RPI X

A single measure of inflation may not meet all user's needs. Following the Office for National Statistics' Review of the Island's RPI, one recommendation was for the Policy and Research Unit to publish the RPI X. RPI X literally means **RPI eXcluding mortgage interest payments**; the RPI is calculated again after this item has been removed.

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Resolutions

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 30th DAY OF MARCH, 2005

The States resolved as follows concerning Billet d'État No III
dated 11th March, 2005

POLICY COUNCIL

RESPONSIBILITY FOR EMERGENCY POWERS

I.- After consideration of the Report dated 20th January, 2005, of the Policy Council:-

1. To establish The Emergency Powers Authority as an authority of the Policy Council.
2. That the mandate of the Emergency Powers Authority shall be as set out in Annex 1 to that Report.
3. To amend the Rules relating to the Constitution and Operation of States Departments and Committees made by the States on 30th October 2003 as follows:
 - (a) in Rule 3(2) before the full stop insert the words "other than the Emergency Powers Authority";
 - (b) after Rule 16 insert a new rule as follows:

"Emergency Powers Authority

17. (1) The Emergency Powers Authority shall be constituted as an authority of the Policy Council as follows:

A chairman who shall be the Chief Minister or, if he is absent, indisposed or otherwise unable to attend, the Deputy Chief Minister. If both the Chief Minister and Deputy Chief Minister are unable to act the senior Panel Member (or, if he is senior to any Panel Member, the Minister of the Home Department) shall be Chairman;

The Minister of the Home Department;

One other member of the Policy Council chosen by the Chief Minister or, if he is absent, indisposed or otherwise unable to act, the Deputy Chief Minister or, if both the Chief Minister and Deputy Chief Minister are unable to act, the senior Panel Member, (or, if he is senior to any Panel Member, the Minister of the Home Department), having regard to the

nature of the emergency drawn from a Panel of five Ministers appointed by the Policy Council.

- (2) Resolutions of the Authority shall not be subject to ratification or other review or approval by the Policy Council.
 - (3) The quorum of the Authority shall be any two members.
 - (4) One of the Law Officers shall be present at all meetings of the Authority.
 - (5) The Bailiff shall be given prior notice of all meetings of the Authority and shall be entitled to advise and warn the Authority with regard to any matter relevant to its deliberations.
 - (6) Rules 6 (casting votes), 7 (terms of office), 14(1) and 14(2) (presence of officers etc) and 15 (declarations of financial interest) shall apply where the context so permits to the Authority."
- (c) renumber existing Rules 17, 18 and 19 as 18, 19 and 20 respectively.
4. That The Emergency Powers (Bailiwick of Guernsey) Law, 1965, as amended, be further amended to provide appropriate oaths for members, ad hoc representatives (e.g. Alderney and Sark representatives) and officers of the Authority, to provide that emergency powers can be exercised for the purpose of protecting the economic interests of the Bailiwick or any part thereof, or where there is a threat to security, public order or public health within the Bailiwick or any part thereof arising from any actual or threatened act of terrorism, and to provide for the transfer of functions to the Authority.
 5. To approve, subject to the following amendment, the Projet de Loi entitled "The Emergency Powers (Bailiwick of 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.

AMENDMENT

1. After clause 6 of the draft Projet, on page 7 of the brochure, insert the following clause -

7. After section 3 of the Law insert the following section -

"Extension of Law to territorial waters.

3A. The provisions of this Law and of any order and regulations made under it extend to the territorial waters adjacent to the Bailiwick of Guernsey."

2. Renummer clauses 7 to 12 of the draft Projet as clauses 8 to 13.
6. To direct The Emergency Powers Authority to bring forward proposals to replace the Emergency Powers (Bailiwick of Guernsey) Law, 1965, as amended with new legislation on the lines of the UK Civil Contingencies Act 2004.

HOUSING DEPARTMENT

STATES HOUSE TENANCIES

II.- After consideration of the Report dated 27th January, 2005, of the Housing Department:-

1. To note that a new States Housing Tenancy Agreement, along the lines set out in Appendix 1 of that Report, shall come into effect from 7th May 2005.
2. (1) That all existing States' residential tenancies shall be terminated with effect from midnight, 6th May 2005.

(2) To approve the draft Ordinance entitled "The States Housing (Termination of Tenancies) (Guernsey) Ordinance, 2005", and to direct that the same shall have effect as an Ordinance of the States.
3. To note that the Housing Department will shortly be publishing and implementing new policies and procedures dealing with tenancy and related matters (including the eligibility criteria and points system), as set out in Appendix 2 of that Report.
4. That, to make best use of the States housing stock, States' Housing tenancies shall be subject to review by the Housing Department at any time, such reviews to be undertaken as described in paragraphs 17 - 26 of that Report.
5. To note that a Housing Appeals Tribunal will be established to consider appeals from people who are aggrieved by decisions of the Housing Department on tenancy and related matters, as set out in paragraphs 27 - 28 of that Report.
6. To appoint the persons listed in Appendix 3 to that Report to the Housing Appeals Panel and to appoint, as Chairman and Deputy Chairman of the Panel, the persons respectively designated to those offices in Appendix 3.
7. That the Housing Appeals Tribunal be constituted as set out in paragraphs 29 - 30 of that Report.
8. That the States Tenancies Independent Review Tribunal shall be disbanded and that Resolutions 1 and 2 of article XXII on Billet d'Etat XVII of 1992 be rescinded.

HOUSING DEPARTMENT

THE HOUSING (CONTROL OF OCCUPATION) (GUERNSEY) LAW, 1994

III.- After consideration of the Report dated 17th January, 2005, of the Housing Department:-

1. That the Housing (Control of Occupation) (Guernsey) Laws, 1994 to 2001 shall remain in force for a further period of two years, i.e. until 30 June 2007
2. That the Housing (Control of Occupation) (Guernsey) Laws, 1994 to 2001 shall be amended along the lines set out in that Report.
3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

SOCIAL SECURITY DEPARTMENT

MEDICAL BENEFIT PAYABLE AT THE PRINCESS ELIZABETH HOSPITAL AND THE MIGNOT MEMORIAL HOSPITAL

IV.- After consideration of the Report dated 20th January, 2005, of the Social Security Department:-

1. That medical benefit shall be payable in respect of consultations with a doctor at the Accident and Emergency Department of the Princess Elizabeth Hospital, Guernsey and at the Casualty Department of the Mignot Memorial Hospital, Alderney.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HEALTH AND SOCIAL SERVICES DEPARTMENT

PROTECTING THE HEALTH OF WORKERS AND THE PUBLIC AGAINST ENVIRONMENTAL TOBACCO SMOKE

V.- After consideration of the Report dated 20th January, 2005, of the Health and Social Services Department:-

1. (1) That legislation be enacted to provide a total ban on smoking in all enclosed public places, as summarised in paragraphs 98 and 99 of that Report.
- (2) That legislation be enacted to provide a total ban on smoking in all enclosed work places as summarised in paragraphs 98 and 99 of that Report.

- (3) That exemptions, as have been accepted in Ireland, such as residential and nursing homes, prisons and psychiatric hospitals be proposed to the States in an Ordinance and be varied in future by Ordinance.
- (4) That a reasonable 'lead in' period of at least one year be given to allow landlords and restaurateurs to provide non enclosed smoking areas if they so wish.
- (5) To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

HOUSE COMMITTEE

RULES OF PROCEDURE OF THE STATES OF DELIBERATION

VI.- After consideration of the Report dated 3rd February, 2005, of the House Committee:-

That the Rules of Procedure of the States of Deliberation be amended, as follows, with immediate effect:-

1. Delete Rule 1(3)(c) and substitute therefore:

“not less than 30 clear days in the case of a Billet d’État containing:

 - (i) a Detailed Development Plan or a proposal for alteration or addition thereto and the report of an Inspector which is laid before the States in accordance with section 12 of the Island Development (Guernsey) Law, 1966 (other than a case where the procedure envisaged by Rule 13 (9) has already been followed);
 - (ii) a Policy and Resource Plan; or
 - (iii) a Strategic and Corporate Plan or a proposal for alteration or addition thereto,”.
2. In Rule 14(1) after the words “A Member” insert the words “who has not already spoken in the debate, otherwise than in pursuance of Rule 12(1) or 12(6),”.
3. (i) Delete Rule 17(3) and substitute therefor:

“When a requête is laid before the States, the Chief Minister and the Minister or Chairman of each of the Departments or Committees referred to in the preceding paragraph shall be entitled to speak

 - (a) immediately after the mover of the requête has opened the debate, and

- (b) immediately before the mover of the requête replies to the debate.”;
 - (ii) In Rule 12(3) after the word “debate” insert the words “or pursuant to Rule 17(3)(b)”.
4. Delete Rule 20(5) and in Rule 20(4) after the words “elect a Minister” insert the words “or a Deputy Chief Minister”.
 5. In Rule 20(6) replace the words “the Presiding Officer shall invite the proposers to speak for not more than 5 minutes each before voting takes place” with “the Presiding Officer shall invite each proposer to speak, for not more than 5 minutes in respect of each candidate proposed by him, before voting takes place”.
 6. After Rule 20(4) add

“(5) On a proposition to elect a Chairman of a Committee the Presiding Officer shall invite Members to propose eligible candidates. Nobody shall speak about a candidate at that stage; and if only one candidate is proposed and seconded the Presiding Officer shall put the election of that candidate to the vote, without speeches. If there is more than one candidate the Presiding Officer shall invite the proposers and the candidates to speak for not more than 5 minutes each before voting takes place; and no other member other than a proposer or candidate shall be entitled to speak.”.
 7. After Rule 20 add

“21. (1) This rule applies to any report of a Department or Committee published as an appendix to a Billet d’État.

(2) Every motion to debate an appendix report must be in writing and must state the names of its proposer and seconder.

(3) A Member who proposes to move a motion to debate an appendix report must furnish the proposed motion to the Presiding Officer and copies thereof to –

 - (a) the Chief Minister,
 - (b) the Minister or Chairman of the Department or Committee concerned with the appendix report to which the motion relates,
 - (c) H. M. Procureur, and
 - (d) the Greffier

not later than 5 clear days (excluding Saturdays, Sundays and Public Holidays) before the meeting of the States at which the

motion is proposed to be moved. Immediately after the closing date for the receipt of such motions the Greffier shall cause a copy thereof to be delivered to every member.

- (4) When notice of a motion to debate an appendix report has been given in accordance with paragraph (3), the Presiding Officer shall, immediately after the conclusion of the ordinary business listed for debate in the Billet d'État containing the appendix report to which the motion relates, invite

- (a) the proposer of the motion to speak thereon;
- (b) the seconder to second the motion, but not speak thereon;
- (c) the Minister or Chairman of the Department or Committee concerned to speak on the matter

following which, without further debate, the Presiding Officer shall immediately put the said motion to the vote.

- (5) If the motion to debate an appendix report is carried –

- (a) the Minister or Chairman of the Department or Committee concerned shall open the debate on the appendix report concerned and he shall reply to the debate;
- (b) the proposer and seconder of the motion to debate an appendix report shall not speak more than once in the debate;
- (c) the proposition shall be “To take note of the Report”;
- (d) no Member shall propose a sursis of the debate or amendment of the proposition.”.

8. Re-number Rules 21 to 27 as 22 to 28 respectively and in Schedule 1 replace the word and figures “Rule 22” with “Rule 23”.

ORDINANCE LAID BEFORE THE STATES

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (FREEZING OF FUNDS AND ECONOMIC RESOURCES OF INDICTEES) (GUERNSEY) ORDINANCE, 2005

In pursuance of the provisions of the proviso to Article 66(3) of the Reform (Guernsey) Law, 1948, as amended, the International Criminal Tribunal for the Former Yugoslavia

(Freezing of Funds and Economic Resources of Indictées) (Guernsey) Ordinance, 2005 made by the Legislation Select Committee on 14th February, 2005, was laid before the States.

STATUTORY INSTRUMENT LAID BEFORE THE STATES

**THE DRIVING TESTS AND DRIVING LICENCES
(INCREASE OF FEES) REGULATIONS, 2004**

In pursuance of section 2B (e) of the Motor Taxation and Licensing (Guernsey) Law, 1987, The Driving Tests and Driving Licences (Increase of Fees) Regulations, 2004, made by the Environment Department on 23rd December, 2004, were laid before the States.

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