



# BILLET D'ÉTAT

WEDNESDAY 23rd FEBRUARY 2011

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2011

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# ***B I L L E T D ' É T A T***

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

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I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **23<sup>rd</sup> FEBRUARY, 2011** at 9.30am, to consider the items contained in this Billet d'État which have been submitted for debate.

G. R. ROWLAND  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey  
14 January 2011

**PROJET DE LOI**

entitled

**THE LAW ENFORCEMENT COMMISSION  
(BAILIWICK OF GUERNSEY) LAW, 2011**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the Projet de Loi entitled “The Law Enforcement Commission (Bailiwick of Guernsey) Law, 2011” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**HEALTH AND SOCIAL SERVICES DEPARTMENT**

NEW MEMBER

The States are asked:-

II.- To elect a sitting Member of the States as a member of the Health and Social Services Department to complete the unexpired portion of the term of office of Mr R G Willmott, who has ceased to have a seat in the States, namely to serve until May 2012 in accordance with Rule 7 of the Constitution and Operation of States Departments and Committees.

**PUBLIC SERVICES DEPARTMENT**

NEW MEMBER

The States are asked:-

III.- To elect a sitting Member of the States as a member of the Public Services Department to complete the unexpired portion of the term of office of Mr W Walden, who has ceased to have a seat in the States, namely to serve until May 2012 in accordance with Rule 7 of the Constitution and Operation of States Departments and Committees.

## **POLICY COUNCIL**

### **PLANNING PANEL – NEW MEMBERS**

#### **Executive Summary**

This Report recommends the States to re-elect Mr John Weir and Mr Nigel Burnard for full six year terms as Members of the Planning Panel with effect from 6<sup>th</sup> April 2011.

#### **Legal Requirements**

In accordance with section 86 of the Land Planning and Development (Guernsey) Law, 2005 (“the Law”), which came into effect on 6<sup>th</sup> April, 2009, the States, on the recommendation of the Policy Council, are required to elect six independent persons as members of the Planning Panel from which the members of the Planning Tribunal are appointed.

The term of office of the members of the Planning Panel is six years but, in accordance with section 86 (5) of the Law, of the members first elected, two were to be elected for two years, two for four years and two for six years.

Attached as an appendix to this Report is the relevant part of section 86 of the Law and section 4 of the Land Planning and Development (Appeals) Ordinance, 2007, which set out in detail the provisions for electing members of the Planning Panel.

At their meeting on 25<sup>th</sup> March, 2009 (Billet d’État VIII of 2009), the States, on the recommendation of the Policy Council following a comprehensive selection process, elected the following as members of the Planning Panel to take effect from 6<sup>th</sup> April 2009:

- (1) Mr Patrick Russell as an ordinary member for a period of 6 years.
- (2) Mr Stuart Fell as a professional member for a period of 6 years.
- (3) Mr William Bowen as a professional member for a period of 4 years
- (4) Mrs Sheelagh Evans as an ordinary member for a period of 4 years
- (5) Mr John Weir as an ordinary member for a period of 2 years
- (6) Mr Nigel Burnard as an ordinary member for a period of 2 years

#### **Nomination of New Members**

The States will need to elect two members of the Planning Panel to serve for 6 year terms with effect from 6<sup>th</sup> April 2011 to replace Mr John Weir and Mr Nigel Burnard whose two year terms of office will end on 5<sup>th</sup> April 2011.

In recommending Mr Weir and Mr Burnard for election to two year terms in 2009, the Policy Council anticipated that they would be put forward for re-election for full six-year terms in 2011.

The new appeals system has been in operation for just over 18 months. It was applied to appeals against decisions made under the new Law ie after 6<sup>th</sup> April 2009, and the number of appeals being submitted has, for this reason, only slowly increased. Whilst the number of appeals being received has significantly increased in recent weeks the level is still well below the original estimate of a minimum of 200 appeals a year. The Policy Council anticipates that the Planning Panel will submit a report on its activities at an appropriate time which will provide a basis for assessing how the system is working.

In the meantime the Policy Council has consulted the Chairman of the Panel, Mr Patrick Russell, who has advised that he and the Deputy Chairman, Mr William Bowen, support the re-election of Mr Weir and Mr Burnard. Mr Weir and Mr Burnard have confirmed their willingness to stand for re-election.

Attached as Appendix II are the brief resumés of Mr Weir and Mr Burnard as included in Billet VIII of 2009.

### **Recommendation**

The Policy Council recommends the States to re-elect Mr John Weir and Mr Nigel Burnard as Members of the Planning Panel to take effect from 6<sup>th</sup> April 2011 each for a period of six years.

L S Trott  
Chief Minister

6<sup>th</sup> December 2010

## Appendix 1

### Section 86 of the Land Planning and Development (Guernsey) Law, 2005

86. (1) The States shall, on the recommendation of the Policy Council, draw up and maintain a panel to be called the Planning Panel which shall consist of six independent persons and from which the members of the Planning Tribunal shall, from time to time, be appointed.
- (2) A recommendation of the Policy Council under subsection (1) may be amended by resolution of the States to the intent that persons other than those recommended by the Policy Council may be elected to the Planning Panel.
- (3) Of the members of the Planning Panel –
- (a) not less than four shall be permanently resident within the Channel Islands,
  - (b) not less than two, who shall be designated by States' resolution as the “**professional members**”, shall be persons with such qualifications and experience in planning matters as in the opinion of the States is necessary for the hearing and determination of appeals to the Planning Tribunal,
  - (c) one shall be designated by States' resolution as the Chairman of the Planning Panel, and
  - (d) one shall be designated by States' resolution as the Deputy Chairman thereof.
- (4) The members of the Planning Panel shall, subject to the provisions of subsection (5), hold office for a term of six years, and a person may be elected for more than one term of office.
- (5) Of the six persons first elected as members of the Planning Panel –
- (a) two, who shall be specified by States' resolution, shall hold office for a term of two years,
  - (b) two others, who shall also be specified by States' resolution, shall hold office for a term of four years, and
  - (c) the remaining two shall hold office for a term of six years.”

**Section 4 of the Land Planning and Development (Appeals) Ordinance, 2007**

4. The following persons may not be elected as member of the Planning Panel -
- (a) a Member of the States of Deliberation within the meaning of the Reform (Guernsey) Law 1948,
  - (b) an employee of the States who is employed by the States within the [Environment] Department, a member of the Department or a person who carries out work for, or provides services to the Department in relation to any functions of the Department under the Law or the repealed enactments,
  - (c) a member of the Strategic Land Planning Group,
  - (d) a person who holds appointment to any judicial office in Guernsey,
- or any person who has been such a person at any time within the period of two years ending on the date of the proposed election”.



## **Appendix 2**

### **Mr John M. Weir**

Mr Weir has been working in the property industry for almost 40 years. A Fellow of the Royal Institution of Chartered Surveyors, he has experience in a number of different facets of the profession including: private practice, Local Authority, quasi civil service, investment institution and industry as Property Director of both Siemens and United News & Media. Until taking early retirement he was Real Estate Executive at BP a position that entailed acquiring and disposing of various global property assets and seeking planning changes as appropriate. Throughout his career, planning has played an important part in delivering various projects. As a Member of CoreNet Global the organisation for Corporate Real Estate Professionals he has chaired a number of their workshop summits in global locations. He occasionally chairs the Tax on Real Property Appeals Tribunal.

### **Mr Nigel Burnard**

In September 2005 Mr Burnard retired from the Island Police Service after 28½ years having reached the rank of Inspector. For the last 5½ years of his career his primary role was working within the Court Office initially as a Prosecuting Inspector then with additional responsibility for Youth Justice. In 2002 he had responsibility for the Workflow Unit ensuring that all submitted files were complete as regards evidence and deciding whether persons should be placed before the Court or the matter dealt with by other means. From January 2003 he oversaw the compilation of most Police Royal Court files and sudden death enquiries together with managing the investigation of ‘outside agency’ enquiries. In these roles he had many dealings with the Law Officers of the Crown. Due to the various roles undertaken in his Police Service he has demonstrated his ability to deal with complex and emotive matters with high degree of probity.

**(NB The Treasury and Resources Department has no comment on the proposal.)**

The States are asked to decide:-

IV.- Whether, after consideration of the Report dated 6<sup>th</sup> December, 2010, of the Policy Council, they are of the opinion:-

To re-elect Mr John Weir and Mr Nigel Burnard as Members of the Planning Panel to take effect from 6<sup>th</sup> April 2011 each for a period of six years.

## **COMMERCE AND EMPLOYMENT DEPARTMENT**

### **APPOINTMENT OF ADDITIONAL MEMBERS TO THE EMPLOYMENT AND DISCRIMINATION TRIBUNAL**

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

1<sup>st</sup> December 2010

Dear Sir

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

Section 1 of the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005 requires the States, on the recommendation of the Commerce and Employment Department, to draw up and maintain The Employment and Discrimination Panel. Panel members are appointed for a 3 year period.

The Ordinance requires that the panel must consist of such number of persons as in the opinion of the States, is necessary for the purpose of hearing and determining complaints under the provisions of the relevant enactments (Covering Unfair Dismissal and Sex Discrimination in employment and Minimum Wage complaints).

#### **2. The Selection Process**

To ensure the States maintain a credible and appropriately skilled Panel, the Commerce and Employment Department conducted an extensive local advertising and recruitment campaign to identify suitable candidates with the skills, knowledge, and experience to fulfil the role. 13 people submitted applications and 10 were shortlisted, on the basis of previously agreed objective criteria. Those shortlisted then took part in an independent assessment at an Assessment Centre run by trained staff from the UK Advisory, Conciliation and Arbitration Service (ACAS). This further reduced the shortlist of 10 candidates to 4 who demonstrated the appropriate skills and competencies for appointment.

The Department considers that a panel of between 15 and 18 is sufficient to administer the Tribunal process. Following retirements from the existing Panel there are currently just 13 panel members whose term of office ends in February 2012. Therefore the Department is recommending that 4 additional panel members be appointed at this time.

**3. The recommended panel members**

The names of the 4 candidates along with a brief career history and a short resume of their relevant knowledge and experience is included at Appendix I of this report. Appointment of the Panel Members will be for a 3 year period effective from the 1<sup>st</sup> March 2011.

**4. Recommendation**

In accordance with the requirements of Section 1 of the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005, the Department recommends the States:

To appoint Mr Nigel Burnard, Mrs Joanne de Garis, Ms Christine Le Lievre and Mr Anthony Pickford as members of the Employment and Discrimination Panel, to take effect from 1<sup>st</sup> March 2011 for a period of 3 years.

Yours faithfully

C S McNulty Bauer  
Minister

**Appendix 1****EMPLOYMENT AND DISCRIMINATION TRIBUNAL PANEL****Summary of the Career History of Candidates Proposed for Appointment****Mr Nigel Burnard**

Mr Burnard served in the Island's Police Force for over 28 years until 2005, during which time he progressed from Constable to Uniformed Sergeant through to Detective Sergeant and ultimately reached the rank of Inspector. For the last five years of his career his work was primarily based within the Court Office where he initially worked as a Court Inspector followed by a year with additional responsibility for Youth Justice. The latter post required Mr Burnard to chair a monthly multi -agency meeting to decide on the manner in which young offenders would be processed. In 2002, in his role as Workflow Inspector, he had specific responsibility for deciding whether persons reported or arrested for offences would be dealt with by means of prosecution or other process. He also has experience of liaising with the Law Officers and HM Comptroller through compilation of Police Royal Court cases and in respect of sudden death enquiries. He has been a lay member of the Planning Panel since April 2009.

**Mrs Joanne de Garis**

Mrs de Garis has nearly twenty years management experience. In her most recent roles she was Secretary to the Tribunal of Inquiry into Industrial Action by Airport Fire Fighters at Guernsey Airport and also Secretary to the Planning Panel. Initially as a Civil Servant and later with the commercialised Guernsey Post as Director of Marketing and Regulatory Affairs, she has gained considerable experience determining the outcome of disciplinary cases and chairing internal employment appeals. Mrs de Garis is locally born and is educated to degree level, achieving joint honours BSc in Biochemistry and Physiology from University of Wales College, Cardiff. She was also awarded The Institute of Directors Diploma in Company Direction in 2007.

**Ms Christine Le Lievre**

Ms Le Lievre has twenty years experience working for Northern Trust (previously Barings), and as a Human Resource Manager since 1997. She was appointed Head of Human Resources in 2005, shortly after the acquisition of the Barings Guernsey Group of Companies by Northern Trust. Since that date she has been responsible for the management of the HR function including recruitment, employment relations, change management, payroll, pensions and terminations (the latter including redundancies). During this time she has gained wide experience in dealing with employment relations issues including interpersonal conflict, stress related issues, absenteeism, performance and capability issues. In 2000 she achieved the post graduate Diploma in Personnel Management through Portsmouth University and the GTA and is a Chartered Member of the Chartered Institute of Personnel and Development (CIPD).

**Mr Anthony Pickford**

Mr Pickford was born in London in 1953. He trained as a Chartered Accountant in the UK and qualified in 1976. He came to Guernsey in 1978 and has over 30 years experience of working in accountancy and financial services businesses in Guernsey, notably with Mercator Trust Company Limited/Grant Thornton Limited (formerly Chandlers Limited) where he was made a Director and Partner in 1986. He took over the role of Managing Director in 2000 and became Chairman in 2004. He retired from these roles in 2008 when he was appointed as a consultant for the companies referred to above. During his working career he has gained a wide experience of employment related matters including recruitment, disciplinary issues, termination of employment appraisals and counselling. He is a Fellow of the Institute of Chartered Accountants, Member of the Society of Trust Estate Planners, formerly a Licensed Insolvency Practitioner, and is qualified in Mediation.

**(NB The Policy Council has no comment on the proposal.)**

**(NB The Treasury and Resources Department has no comment on the proposal.)**

The States are asked to decide:-

V.- Whether, after consideration of the Report dated 1<sup>st</sup> December, 2010, of the Commerce and Employment Department, they are of the opinion:-

To appoint Mr Nigel Burnard, Mrs Joanne de Garis, Ms Christine Le Lievre and Mr Anthony Pickford as members of the Employment and Discrimination Panel, to take effect from 1<sup>st</sup> March 2011 for a period of 3 years.

## **HEALTH AND SOCIAL SERVICES DEPARTMENT**

### **IMPLEMENTING CHARGES FOR PRIVATE DENTAL IMAGING**

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

14<sup>th</sup> December, 2010

Dear Sir

#### **EXECUTIVE SUMMARY**

1. The Health and Social Services Department (“the Department”) wishes to reverse a States Resolution dating back to 2002, which limits its authority to introduce certain charges, so that the Department can now introduce charges for private dental imaging (in the context of the very different financial climate today from that in 2002).

#### **BACKGROUND**

2. Dental patients are referred to the Radiology Department for specialist images of the jaw and teeth as result of a visit to the dentist. If the radiological equipment required is not available in a dental practice, dentists refer their patients to the Radiology Department to avoid incurring the high capital costs of purchasing equipment.
3. There is no States-funded adult dentistry in Guernsey. Like primary care, it is a privately provided area of healthcare. The relevant patients are private dental patients who effectively receive a free service from the HSSD’s Radiology Department. Indeed if the equipment was available in a dental practice the practice would charge and the patient would pay anyway. There seems to be a lack of logic and consistency to a situation where government-funded investigations are either available or not available depending on the physical location of where they take place. It is therefore proposed that a charge be introduced for these hospital dental examinations.
4. Historically, the Radiology Department has not charged for this service even though these patients are undertaking imaging as part of a private dental consultation and treatment plan.



5. In view of the current financial climate, the Department is actively reviewing all income areas, as well as its costs, and this is an area in which the Department believes charges should be implemented.

## STATES RESOLUTIONS

6. There is a long history of States Resolutions defining and refining the lines of demarcation as to which health services are available free (i.e. government-provided) and which are not. The most recent occasion when the States carried out any significant review of the topic of charges for health services was in February 2002 (Billet d'État III of 2002, Resolution V(2)(1)). Listed in the Appendix attached for information are extracts from that Billet which set out the full history of the background of relevant States Resolutions.

7. In the above mentioned review in February 2002, the States of Guernsey resolved, inter alia:

*“That residents of Guernsey and Alderney shall be entitled to the following health services, provided through general revenue or through contributions to the Guernsey Social Security Authority without charge to the patients at the point of delivery:*

[...]

*radiology and pathology treatment services in respect of adult dentistry and the School Dental Service.”*

8. At that time the focus was on rectifying an apparent lack of clarity as to whether private patients (under the then relatively new Specialist Health Insurance Scheme) would have to pay for such investigations. Dentistry matters were not the primary focus of the 2002 review, and received no particular attention, and the Board of Health did not take the opportunity to remove the provision of free radiology and pathology services for adult dentistry from the list of those health services made available free (i.e. government-provided). With hindsight, the Board of Health might as well have done so at that time, and the Department certainly now wishes to do so, and, accordingly, to amend the above Resolution to remove the inclusion of radiology (and pathology) treatment services in respect of adult dentistry.
9. The Department would add, by way of explanation, that these proposed new charges were highlighted in a workstream which formed part of the Financial Transformation Programme. However, a decision was taken that, as the work was already ongoing at the time of discussion, the matter would not be included within that workstream.
10. By way of clarification, the Children's Dental Service (formerly the School Dental Service) is unaffected by the above proposal. Children referred through the Service would to continue receive radiology and pathology treatment free of

charge, but, obviously, children referred through private dental practices would not. However, that is no different to the current position.

**EVALUATION AGAINST THE CRITERIA REQUIRED BY THE STATES RESOLUTION OF 31 JANUARY 2007**

11. In accordance with the States Resolution of 31 January 2007 that fees and charges, including proposals to introduce new charges, should be evaluated against certain criteria recommended by the Treasury and Resources Department at that time, the Department has carried out such evaluation and the conclusions are also set out below.

**How much can be raised?**

12. Theoretically, introducing the above charges would result in a first year figure in the region of £40,000, based on existing numbers of dental x-rays. The Department's 2011 revenue budget has been compiled on this basis, i.e. on the assumption that these proposals will proceed.

**How much will administering, policing and processing the collection of the income cost?**

13. The work can simply be absorbed into the Finance Directorate's normal invoicing procedures. The impact on workload should be minimal.

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

14. For dental referrals, the radiology service presently bears the full cost of the equipment and maintenance to achieve these images, as well as the cost of the necessary compact disc to be sent to the requesting dentist.
15. It is very difficult to estimate the total cost.
16. The only element which can be estimated relatively easily is that of producing an individual image which, including the disc itself, would be in the region of £10.20. There are estimated to be close to 1000 images per year which would therefore cost the Department nearly £10,000 per annum in direct costs.
17. However that does not include staff time performing the range of tasks also needed to progress the matter, ranging from admission, bringing the patient in, the radiographers' time and other tasks. Nor, further, does it include management time, overheads or other indirect costs. A total figure per unit would be a good deal higher than the figure mentioned in the preceding paragraph.
18. Further, the equipment has maintenance costs of £3,000 per annum. Its replacement cost is £40,000, although it is difficult to predict how often it will

need to be replaced because the equipment may often last longer than its expected lifespan. (The equipment is also required for, and would have to be maintained anyway, for imaging of the jaw for fractures, emergencies and chronic conditions.)

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

19. The proposed tariff is £50 per x-ray, although this tariff is presently subject to consultation with affected parties. The rationale for these proposals is the desired achievement of consistency with what happens at private dental practices and, as will be seen from the following paragraph, the Department does not believe that £50 per x-ray represents a particularly aggressive profit margin.

**Can the customer realistically afford to pay?**

20. The Department believes the answer to this question is “yes”, simply because patients of private dental practices are already paying such charges to those practices which happen to have the necessary equipment on site. At least four local practices have their own equipment, and these charge between £40 and £70 per image.

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

21. The answer to this question is that such charges do not presently exist.

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

22. The present situation in Jersey is that most dental practices have their own machine, but the hospital radiology service can undertake the procedure if requested, but would do so only as a private referral, i.e. where the patient is charged.
23. Within the NHS, almost all radiology departments charge dentists for radiology procedures. These charges vary but start at £45 for the image and a charge for the CD of the image from £10 to £30. (In rare cases where the patient is referred from an NHS dentist or school dentist, the charge would be borne by the primary care trust).
24. It will be seen from the above that the proposals in this report will therefore bring Guernsey into line with elsewhere.

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

25. The Department believes that the implementation requirements are confined to the change in Resolution recommended in this report. No legislation is necessary.

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

26. The Department review all its charges annually, and this charge would be treated no differently to all its other charges.

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

27. Economic analysis is not within the Department's area of expertise, but the Department would comment that the amounts per annum are relatively small and the Department does not believe these proposals will have any significant impact.

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

28. The Department considers that these proposals are entirely consistent with the types of policy and strategy which are appropriate for States Departments in the current financial climate.

**RECOMMENDATIONS**

29. The Health and Social Services Department recommends the States to amend Resolution V (2) (1) of 28<sup>th</sup> February, 2002 (on Billet d'État III of 2002), by deleting the words "adult dentistry and" from the words "radiology and pathology treatment services in respect of adult dentistry and the School Dental Service" (where they appear in the list of health services to which Guernsey and Alderney residents are stated to be entitled free of charge).

Yours faithfully

A H Adam  
Minister

**APPENDIX**

**STATES RESOLUTIONS SETTING OUT THE BACKGROUND TO THE CHARGING HISTORY FOR LOCAL HEALTH SERVICES**

**Extracts from Billet d'État III of 2002**

**“The history leading to today’s position is as follows:**

11. Prior to 1952 Radiology was provided by a private non medical practitioner working from his own consulting rooms; the States had no other obligation than to meet the costs of x-ray examinations from those who could not pay the cost of examination themselves.
  
12. In 1952 The States decided to establish a medically directed diagnostic radiology service (Billet d'État VII 1952). A radiology department was built and a Radiologist was appointed as the first full time consultant employed by the Board of Health.  
  
Patients continued to pay for their examinations but payment was made directly to the hospital and the Consultant Radiologist was paid a salary that was unrelated in any way to the income from the service or to the volume of work he undertook. He was not permitted by the terms of his contract to undertaken private work.
  
13. In 1959 The States agreed to a recommendation from the Board of Health that all fees for radiology and pathology examinations should be abolished (Billet d'État IX 1959).
  
14. In 1968 The States resolved that “hospital charges” be abolished with effect from the 1<sup>st</sup> January 1969 in respect of all patients admitted to the public wards in the Princess Elizabeth Hospital and in respect of all patients admitted to the Castel and Maternity Hospitals. (Billet d'État XVII 1968).
  
15. In 1973 It was agreed that the Consultant Radiologist be employed on the same basis as colleagues in the NHS and that he should receive payments for Category II work, as defined by NHS conditions of service for medical staff.
  
16. In 1986 Following a report from the Board of Health, the States resolved (Billet d'État XI 1986):
  - (a) That in line with the 1959 Resolution of the States, no charge shall be made to residents of Guernsey and Alderney for x-ray and Pathological investigations, examinations and procedures where these arise from the prevention, diagnosis and treatment of illness.

- (b) That charges made for such examinations to persons not resident in Guernsey and Alderney unless they are resident in a territory with which Guernsey has a reciprocal health service agreement.
- (c) That charges may be made for such examinations to persons who receive treatment following a road traffic accident where the fees could be recovered under the terms of a motor insurance policy.
- (d) That a charge may be made for x-ray and Pathological investigations, examinations and procedures when –
  - Such examinations do not arise from the prevention, diagnosis and treatment of illness.
  - The patient elects to be seen as a private patient.
- (e) That where a charge is made, and hospital facilities by Consultants in National Health Service hospitals.

17. In 1995 Following a report from the Guernsey Social Security Authority, the States resolved that the Specialist Health Insurance Scheme be introduced with effect from the 1<sup>st</sup> January 1996 (Billet d'État XIII 1995), which allowed all Guernsey and Alderney residents admitted to the Princess Elizabeth Hospital, together with those requiring outpatient consultations, to receive treatment free of charge at the point of delivery, funded through extended Social Security contributions.

Patients, however, retained the option to be treated as private patients and pay both hospital costs and medical and physiotherapy fees.

**Current Position**

- 18. Previous resolutions have provided for the residents of Guernsey and Alderney to receive hospital care and Radiological and Pathological investigations funded through general revenue.
- 19. The introduction of the Specialist Health Insurance Scheme has not affected that right.
- 20. Further States resolutions to enable private work to be undertaken by Consultant Radiologists and Consultant Pathologists do not invalidate a patient's right to free investigations in these specialties. Patients are free to choose private radiology and pathology services if they so wish but this is an individual decision to opt out of the service funded through general revenue.

21. Residents in Guernsey and Alderney who are admitted to Victoria Wing at the Princess Elizabeth Hospital, who are being treated in a wholly private capacity by medical specialists, are still within their rights to have all radiological and pathological investigation undertaken free of charge, albeit that they have to pay for all other hospital services.
22. Patients who opt out of the States Health Insurance Scheme and elect for wholly private care currently have to specifically request private radiological and pathological services.
23. There is some doubt under the current resolutions if patients opting for private care can receive accommodation and the use of hospital facilities on a general ward, where they would be responsible for meeting their medical and physiotherapy fees but not their hospital charges.
24. With regard to dental services, where radiological investigations are being carried out for services on behalf of the Board of Health, for example the school dental services, these investigations are carried out without charge to the patient.
25. Where dental patients are seeking radiological investigations as a consequence of referral from a private dentist then the investigations will be covered under the existing States resolution, providing free radiology and pathology investigations unless the patient opts to be seen in a private capacity.
26. Patients attending a medical clinic, the primary purpose of which is not the diagnosis or treatment of illness, may still receive radiology and pathology investigations without charge, providing the clinic doctor has permission from the Board of Health to refer patients for these services. For example, a clinic has been set up recently in Guernsey, the purpose of which is primarily aesthetic. If the doctor running it was granted permission to access pathology and radiology services, the patients would be entitled to a free service, although the doctor has requested only paid access to the services.

### **Proposal**

27. The Board of Health is recommending that, where residents of Guernsey and Alderney choose to be treated in a wholly private capacity, they be responsible for all charges associated with their treatment and care.
28. Patients treated in a wholly private capacity will, in future, be expected to meet charges in respect of hospital costs, Specialist and Consultant fees, Physiotherapy fees and Radiology and Pathology investigations.
29. Treatment of dental patients will continue unchanged, as there is no States funded service other than for children.

30. The existing proportion of charge for the use of hospital facilities in relation to private radiology and pathology services together with the agreed list of charges for private procedures will also continue unchanged apart from annual adjustments, which are generally increased in line with the change of the RPI.
31. In order to implement these changes, the States need to rescind all relevant resolutions that relate to radiology and pathology charges and replace them with a composite resolution which will provide for outpatients and inpatients who opt for wholly private care to be required to meet all charges associated with their treatment and care including accommodation, hospital charges, medical and physiotherapy fees, radiology and pathology investigations.
32. Prescription charges and arrangements will continue unchanged.
33. Radiology and Pathology investigations requested by General Practitioners will continue to be provided free at the point of delivery, funded by the Board of Health's revenue allocation but patients attending a clinic, the primary purpose of which is not the diagnosis or treatment of illness, will be required to pay for radiology and pathology investigations.

...

### **Recommendations**

35. The Board of Health requests the States:
  - (a) To rescind the previous resolutions of:
    - 1952 regarding the introduction of and payments for a States' radiological service
    - 1959, regarding the abolition of fees for radiology and pathology examinations
    - 1986, regarding the introduction of charges for non-reciprocal health patients, the introduction of charges for patients who seek private radiology and pathology investigation, the introduction of charges in radiology and pathology where investigations are not associated with the diagnosis and treatment of illness, and the introduction of charges by both the Board of Health and Medical Consultants on an agreed shared basis.
  - (b) To resolve:-
    - (i) That residents of Guernsey and Alderney shall be entitled to the following health services, provided through general revenue or through contributions to Guernsey Social Security Authority without charge to the patient at the point of delivery;



all specialist acute inpatient and outpatient care and treatment recognised under the specialist health insurance scheme or any successor scheme;

all medical care and treatment provided by States Employed Consultants, except that provided for long-stay patients which is included as part of the long-stay fees;

radiology and pathology investigations relating to the diagnosis and treatment of illness, except for patients receiving specialist care in a wholly private capacity and patients referred by a private clinic, the purpose of which is not primarily the diagnosis or treatment of illness;

radiology and pathology treatment services in respect of adult dentistry and the School Dental Service.

- (ii) That fees may be charged by the Board of Health, by the Medical Specialist Group and by States Employed Consultants for services, investigations, care and treatment which is not connected with the diagnosis and treatment of illness and/or not covered by the Social Security Authority, in respect of Primary Care or the Specialist Health Insurance Scheme.
- (iii) That patients who opt to be treated in a wholly private capacity should be charged for the following services:
  - Medical consultations and treatment, whether by a Specialist employed by the Medical Specialist Group or by a States Employed Consultant, Physiotherapy, Radiology and Pathology investigations, Hospital charges in respect of accommodation, food and beverages, drugs and dressings, clinical disposables, nursing care and other associated professional charges, use of facilities and equipment.
- (iv) That patients who are residents of Sark and visitors not covered by the reciprocal health arrangements be required to meet the Board of Health charges and consultant fees in relation to Radiology and Pathology investigations.
- (v) That such charges shall be set and regularly reviewed by the Board of Health in respect of use of the Board's facilities and services.
- (vi) That patients opting for private in-patient treatment and care must be admitted to the Victoria Wing or any other area of the Board of

Health's premises specifically designed by the Board for private patients.

- (vii) That private charges in respect of Medical and Physiotherapy fees will be subject to agreement between Consultant/Specialist/Physiotherapist and the patient directly.
  - (viii) That the Board of Health retains the option of reintroducing the charges in respect of treatment following road traffic accidents.
- (c) To direct the Advisory and Finance Committee to take due account of the estimated income to the Board of Health resulting from these changes when calculating and recommending to the States any changes to the Board of Health's revenue budget for 2003 and succeeding years."

**(NB The Policy Council has no comment on the proposal.)**

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

The States are asked to decide:-

VI.- Whether, after consideration of the Report dated 14<sup>th</sup> December, 2010, of the Health and Social Services Department, they are of the opinion:-

To amend their resolution V (2) (1) of 28<sup>th</sup> February, 2002 (on Billet d'État III of 2002), by deleting the words "adult dentistry and" from the words "radiology and pathology treatment services in respect of adult dentistry and the School Dental Service" (where they appear in the list of health services to which Guernsey and Alderney residents are stated to be entitled free of charge).

## STATES ASSEMBLY AND CONSTITUTION COMMITTEE

### ISLAND-WIDE VOTING – 3<sup>rd</sup> REPORT

The Presiding Officer  
The States of Guernsey  
Royal Court House  
St. Peter Port

17<sup>th</sup> December 2010

Dear Sir

#### EXECUTIVE SUMMARY

1. In this report the States Assembly and Constitution Committee –
  - (a) sets out a detailed analysis of all the options for the introduction of Island-wide voting and ancillary issues as directed by the States on 1<sup>st</sup> July 2010;
  - (b) recommends the States to agree that 45 People’s Deputies shall be elected in a single Island-wide election with effect from the General Election to be held in 2012 and that the manifestos of candidates in Island-wide elections shall be distributed at the expense of the States by means of an election publication, the cost of which will be borne by the candidates.

#### INTRODUCTION

2. On the 27<sup>th</sup> April 2006 the States resolved<sup>1</sup> –

*“5B To direct the House Committee to undertake a comprehensive review of all practicable methods of introducing Island-wide voting for the office of People’s Deputy, and to report back to the States in sufficient time to enable the introduction of such a system with effect from the General Election to be held in 2012.”*
3. On the 28<sup>th</sup> January 2009 the States considered the States Assembly and Constitution Committee’s first report<sup>2</sup> on Island-wide voting which had been submitted pursuant to Rule 12(4) of the Rules of Procedure, and resolved –

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<sup>1</sup> Billet d’État VII of 2006, p. 505

<sup>2</sup> Billet d’État I of 2009, p.1

- “1. *To note the Report.*
2. *To direct the States Assembly and Constitution Committee to report further to the States with detailed proposals regarding the election and constitution of the States of Deliberation which will take effect from the General Election to be held in 2012.”.*
4. On the 1<sup>st</sup> July 2010 the States, prior to considering the States Assembly and Constitution Committee’s second report<sup>3</sup> on Island-wide voting, resolved –

*“To sursis the Article, and direct the States Assembly and Constitution Committee to report back to the States of Deliberation as soon as practicable with a broader report containing –*

- (a) *detailed consideration of the options for reducing the number of People’s Deputies in the States of Deliberation from 45 to*
- (i) *40,*
- (ii) *35, and*
- (iii) *any other number of Deputies the Committee considers would be appropriate;*
- (b) *a detailed analysis of all the options for the introduction of Island-wide voting, to include not only the options set out in the Committee’s 2<sup>nd</sup> Report but also those that have been introduced through amendments to the Propositions thereon that have been circulated prior to this Meeting of the States of Deliberation and any variants thereon that the Committee considers should be covered, in each case taking into account the possible modifications of the number of People’s Deputies in accordance with paragraph (a); and*
- (c) *details of all the operational and logistical issues that would arise and require amendment in respect of every option under consideration in accordance with paragraphs (a) and (b) regarding the elections for, and constitution of, the States of Deliberation which will take effect from the General Election to be held in 2012 and, where applicable, in respect of any partial election of the Members of the States of Deliberation preceding or following that General Election.”.*

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<sup>3</sup> Billet d’État XV of 2010, p.928

**THE AMENDMENTS REFERRED TO IN THE SURSIS**

5. Paragraph (a) of the sursis relates to two amendments, the effect of which would be to reduce the number of People's Deputies. An amendment proposed by Deputy L R Gallienne and seconded by Deputy J.Kuttelwascher sought a reduction from 45 to 35 whilst one proposed by Deputy B L Brehaut and seconded by Deputy C A Steere sought a reduction from 45 to 40.
6. The amendments referred to in paragraph (b) of the sursis are set out in the following paragraphs.
7. Proposed by Deputy R R Matthews and seconded by Deputy J A B Gollop –

*“That with effect from June 2011:*

- (a) *the Reform (Guernsey) Law, 1948, as amended, be further amended to provide:*
  - (i) *that there shall be 15 Deputies elected Island-wide, initially for a three-year term, and thereafter for successive four-year terms;*
  - (ii) *that these Island-wide Deputies shall be elected by the votes of the electors of the Islands of Guernsey and Alderney;*
  - (iii) *that a candidate for the office of Island-wide Deputy must be nominated by fourteen persons, being two persons on the Electoral Roll from each of the seven existing electoral districts in Guernsey; and*
  - (iv) *on a transitional basis, that the States of Deliberation shall, if necessary, include an increased number of People's Deputies so as to accommodate any Deputies elected in the June 2011 election who are not already sitting People's Deputies; and*
- (b) *the Rules of Procedure of the States of Deliberation and the States Resolutions governing the Constitution and Operation of States Departments and Committees be amended to provide:*
  - (i) *that eligibility to hold the office of Chief Minister shall be restricted to an Island-wide Deputy; and*
  - (ii) *that the Chief Minister and the Ministers of Departments in office immediately prior to the election in June 2011 shall be deemed to have tendered their resignations from*

*office to take effect from an appropriate date following the election of the 15 Island-wide Deputies.*

*To direct the States Assembly and Constitution Committee to report to the States as soon as practicable, and in any event before the end of 2010, setting out detailed proposals relating to the allocation of the 30 seats to be distributed across the electoral districts at the General Election to be held in 2012 and the procedure at, and conduct of, the elections to be held from June 2011.”.*

8. Proposed by Deputy J Kuttelwascher and seconded by Deputy S J McManus –

*“That the Reform (Guernsey) Law, 1948, as amended, be further amended to provide that, with effect from the General Election to be held in 2012, there be:*

- (i) a Chief Minister elected by Island-wide voting from persons eligible to hold the office of Chief Minister in accordance with rule 20(2A) of the Rules of Procedure of the States of Deliberation;*
- (ii) 10 Deputies elected on the same day by Island-wide voting; and*
- (iii) 34 Deputies elected on the same day by the votes of electors in each of the current electoral districts.*

*To direct the States Assembly and Constitution Committee to report to the States as soon as practicable, and in any event before the end of 2010, setting out detailed proposals relating to the allocation of the 34 seats to be distributed across the electoral districts and the procedure at, and conduct of, the elections comprising the General Election to be held with effect from 2012.”.*

9. Proposed by Deputy J Kuttelwascher and seconded by Deputy S J McManus –

*“That the Reform (Guernsey) Law, 1948, as amended, be further amended to provide that, with effect from the General Election to be held in 2012, there be 11 Island Deputies elected Island-wide for a four-year term and 34 Deputies elected on the same day by the votes of electors in each of the current electoral districts for a four-year term, provided that when elections for both offices occur on the same day candidates may seek election to one such office only.*

*To direct the States Assembly and Constitution Committee to report to the States as soon as practicable, and in any event before the end of 2010, setting out detailed proposals relating to the allocation of the 34 seats to be distributed across the electoral districts and the procedure at,*

*and conduct of, the elections comprising the General Election to be held with effect from 2012.”.*

10. Proposed by Deputy M P J Hadley and seconded by Deputy J A B Gollop –

*“To direct the States Assembly and Constitution Committee to report to the States as soon as practicable setting out detailed proposals for the introduction with effect from the 2012 General Election of voting by way of the Single Transferable Vote system.”.*

### **THE OPTIONS SET OUT IN THE COMMITTEE’S SECOND REPORT**

11. The propositions set out at the end of the Committee’s Second Report were as follows:

1. 45 Deputies elected Island-wide for a four-year term;

*or*

2. 45 Deputies elected Island-wide for a four-year term but with elections held every two years for half the number of seats and subject to transitional arrangements;

*or*

3. 10 Parish Deputies, one elected from each parish for a four-year term with 35 Island Deputies elected Island-wide for a four-year term, provided that when elections for both offices occur on the same day candidates may seek election to one such office only;

*and*

4. that in the Island-wide election each elector shall be entitled to vote for a maximum of 10 candidates only.

### **ISSUES RAISED SUBSEQUENT TO THE STATES DEBATE OF 1<sup>ST</sup> JULY 2010**

12. Subsequent to the debate of the 1<sup>st</sup> July, 2010 the Committee has identified a small number of further issues which it believes should be addressed in this report. Such matters are referred to in this report as *“further issues”*.

### **IDENTIFYING THE ISSUES**

13. This report will address the several issues in distinct parts as follows:

#### **Part I - Number of Members in the States of Deliberation:**

- (i) Reduce from 45 to 35 *(Gallienne amendment)*



- (ii) Reduce from 45 to 40 *(Brehaut amendment)*
- (iii) Reduce from 45 to some other number *(Gillson sursis)*

**Part II - Election of Members of the States of Deliberation:**

- (i) 45 Deputies elected in seven electoral districts *(the status quo)*
- (ii) 45 Island-wide Deputies elected in a single election  
*(2<sup>nd</sup> Report propositions)*
- (iii) 45 Island-wide Deputies elected half every two years  
*(2<sup>nd</sup> Report propositions)*
- (iv) 35 Island-wide Deputies elected in a single election with 10 Parish Deputies elected the same day *(2<sup>nd</sup> Report propositions)*
- (v) Restriction on the number of votes which electors may cast  
*(2<sup>nd</sup> Report propositions)*
- (vi) Chief Minister elected Island-wide, 10 Island-wide Deputies and 34 District Deputies all elected the same day  
*(Kuttelwascher (1) amendment)*
- (vii) 11 Island-wide Deputies and 34 District Deputies elected the same day  
*(Kuttelwascher (2) amendment)*
- (viii) 15 Island-wide Deputies elected in June 2011 by the electorate of Guernsey and Alderney, having been nominated by 2 persons from each of the 7 Guernsey electoral districts and 30 District Deputies from the existing 7 electoral districts, with the following transitional arrangements:
  - o Island-wide Deputies elected in June 2011 to serve 3 year term only, thereafter 4 year terms
  - o Temporary increase in number of States Members from June 2011 until April 2012. *(Matthews amendment)*

**Part III - Other issues:**

- (i) Elections to be held by Single Transferable Vote system  
*(Hadley amendment)*
- (ii) Chief Minister to be elected from those elected as Island-wide Deputies  
*(Matthews amendment)*

- (iii) Elections for the offices of Chief Minister and Ministers to be held immediately after the June 2011 election  
(*Matthews amendment*)
  - (iv) Party Politics  
(*further issues*)
  - (v) Elections of ministers, chairmen and members of departments and committees  
(*further issues*)
14. Whilst it is hoped that dividing the issues into the broad groupings set out above will be of assistance to Members of the States in digesting this report there are, nonetheless, certain issues which will require cross-referencing. By way of example, the sursis requires that the Part II items take into account Part I, i.e. the possible modifications of the number of People's Deputies.
15. The explanatory note to the sursis refers to "*detailed consideration of the pros and cons*", and indeed many Members used similar terminology in the course of the sursis debate. The States Assembly and Constitution Committee has desisted from using the terminology "*pros and cons*" in this report because what may be considered to be a positive argument by some is viewed as a negative argument by others.

#### **PART I - NUMBER OF MEMBERS IN THE STATES OF DELIBERATION**

16. In the Committee's previous report it was stated that some of the respondents to the public consultation had suggested that the overall number of States Members should be reduced. The Committee acknowledged that there may indeed be good reasons to reduce the number of States Members whilst at the same time holding the view that it would be inappropriate to associate such a reduction with a proposed change in the method of election. Reducing the number of Members simply to accommodate a system of voting is certainly not sufficient reason in itself for such a change. Indeed, the overall number of Members is related more to the machinery of government rather than to one particular electoral system.
17. The following table showing the number of members of parliament in other jurisdictions of similar area/population was included in the Committee's 1<sup>st</sup> Report. Whilst the jurisdictions may be similar in area/population it should be noted that in all of them (save for Jersey and the Isle of Man) there is an established party political culture.

	<b>Land area km<sup>2</sup></b>	<b>Population</b>	<b>N° of elected Members</b>	<b>Population per Member</b>
Guernsey	65	62,274 <sup>4</sup>	45 <sup>5</sup>	1,384
Liechtenstein	160	33,987	25	1,359
Gibraltar	6.5	27,928	18	1,552
Jersey	116	90,800	53	1,713
Bermuda	53	65,773	36	1,827
Isle of Man	572	80,058	34	2,354
Andorra	468	71,201	28	2,543

18. If the number of Members of the States had relevance only with regard to elections then the matter would be more straightforward. Reducing the overall number of voting Members would not adversely affect any of the Island-wide voting options put forward. Indeed, the contrary is true: the implementation of all the options would probably be eased by a reduction in the number of persons elected. However, the issues are not so simple because in determining the number of members required there are factors which have to be taken into account which go well beyond those which are relevant solely for the purpose of selecting an electoral system.

19. Firstly, the States have directed the Public Accounts Committee –

*“to report to the States of Deliberation during 2010 with recommendations for improving the governance arrangements of the States of Guernsey within the existing structure of government by committees and consensus and using as a benchmark the six recognised principles of good government.”<sup>6</sup>*

At the time of writing this report it is not known whether the recommendations made by the Public Accounts Committee pursuant to that resolution will bear upon the constitution of the States.

20. Secondly, Guernsey has a system of government by committees and consensus: not a cabinet/ministerial system with party politics. The States of Deliberation, therefore, have parliamentary duties that include legislative and governmental functions and the distinction between the two functions is less clear under the current system than it might be under other systems. It might be argued that fewer than 47 Members are required to fulfil the governmental functions but it could equally be argued that 47 Members was appropriate for the proper

<sup>4</sup> Latest available population of Guernsey, Herm and Jethou (*source: Social Security Department*).

N.B. as this figure is not provided on a parish-by-parish basis it has been necessary to use the population as recorded in the 2001 Census in subsequent tables where the precise parish/electoral district population is required.

<sup>5</sup> In addition to which are two members appointed by the States of Alderney.

<sup>6</sup> Resolution of the 28<sup>th</sup> January 2010 on Billet d’État III of 2010, p. 97

discharge of the parliamentary functions. A parliament must have sufficient members to ensure reasoned political argument and debate.

21. The Committee believes that any significant reduction in the number of States Members could adversely affect the balance between those who present matters for debate and those who provide the necessary element of scrutiny within the States Assembly. This balance is fluid and changes for each debate depending on the number of departments involved, either directly or indirectly, in any particular matter. Further, of the 13 States Members who are currently members of either or both the Scrutiny Committee and Public Accounts Committee, only four of them do not also have a seat on one of the States departments. This is indicative of the complexities of providing challenge and scrutiny in a non-party system.

## **PART II - ELECTION OF MEMBERS OF THE STATES OF DELIBERATION**

### **(i) 45 DEPUTIES ELECTED IN SEVEN ELECTORAL DISTRICTS**

#### **22. Overview**

- (a) The Island is divided into seven electoral districts broadly similar in size, with each district electing either six or seven members; a total of 45 People's Deputies being elected throughout the seven electoral districts. In 2004 there were 82 candidates for the 45 seats; in 2008 a total of 88 candidates sought election. Voters have as many votes as there are seats available (i.e. six or seven). Voters select individual candidates and may use as many, or as few, of their votes as they wish. The six or seven candidates, as the case may be, securing the highest number of votes are declared elected. The figures detailed in Appendix 1 show the average number of votes cast by each elector in the 2004 and 2008 General Elections of People's Deputies and also the 1994 and 1997 Conseillers' Elections.
- (b) Division of the Island into electoral districts was reintroduced<sup>7</sup> in 2004 and the district boundaries remained unchanged in 2008. The parishes of St. Sampson, the Vale and the Castel each form an electoral district, the parish of St. Peter Port is divided into two districts, the parishes of St. Saviour, St. Pierre du Bois, Torteval and the Forest together comprise one district with the remaining parishes of St. Martin and St. Andrew also forming one district.

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<sup>7</sup> The office of People's Deputy was created in 1899 when nine Deputies were elected in an Island-wide poll. In 1928 the number of Deputies was increased to 18 and the elections were held in six electoral districts. In 1949 the number of Deputies was further increased to 33 with each of the 10 parishes comprising a separate electoral district. Until 1949 the Rectors and Jurats were Members of the States of Deliberation and each parish was represented by a Constable or Douzenier until 2004. In 2000 the number of Deputies was again increased to 45 with elections continuing on a parochial basis.

- (c) The method of election and district boundaries are generally understood by the electorate. There is a degree of ‘parochial’ representation although in only three cases do the parish and electoral district boundaries actually coincide. Election by electoral districts is criticised by proponents of Island-wide voting who hold that electors are unfairly constrained by being prevented from voting for, or not voting for, candidates in other electoral districts.

### 23. **Candidates**

Whilst candidates themselves do not need to reside in the electoral district in which they seek election (although over 75% of People’s Deputies currently do so) they can be proposed and seconded only by persons inscribed on the district’s electoral roll. Many, but by no means all, candidates canvass from door-to-door. This is less easy in the geographically larger districts, for example West district which covers one-third of the Island. Candidates’ expenses must be contained within the limits prescribed by Ordinance<sup>8</sup> which currently provides that the maximum which may be expended by a candidate for the office of People’s Deputy is £1,400. Such expenses as may be incurred are borne by the candidates themselves. The only expense in this regard which is met by the States is the postage of manifestos.

### 24. **Electors**

In the present electoral districts the number of candidates in the 2008 General Election ranged from 11 (South-East district) to 14 (St. Peter Port South and St. Peter Port North districts). Electors may cast their votes at any polling station within the electoral district.

### 25. **Manifestos**

It has become an almost universal practice for election candidates in Guernsey to distribute a manifesto either to each elector, or alternatively, one to each household. The cost of printing and enveloping is borne wholly by the candidate. By resolution of the States,<sup>9</sup> 50% of the cost of postage of manifestos may be claimed from the States by the candidates. However, when the envelope contains the mailings of two or more candidates then the States will meet the full cost thereof. The cost of this facility in respect of the 2008 General Election was just over £30,000. On that occasion 40 candidates posted individually (and therefore paid 50% of the cost of postage), 38 candidates posted with one or more other candidates (and therefore received free postage) and 10 candidates did not use the scheme. Appendix 2 provides greater detail regarding the use of this facility in the 2008 General Election.

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<sup>8</sup> The Elections Ordinance, 2007

<sup>9</sup> Resolution of 29<sup>th</sup> October 2003 on Article 24 of Billet État XXI of 2003, p. 2103

## 26. **Hustings**

- (a) Whilst there is an established tradition of hustings being held prior to each election of People's Deputies there is no statutory obligation for such meetings to take place. The meetings are usually organised by the Constables and Douzaines of the parishes although in the multi-parish electoral districts the District Returning Officer now undertakes the task. The costs relating to the hire an appropriate hall and public address system and the placing of advertisements are met by the States.
- (b) The usual pattern is for an evening meeting to be held in a large hall at which each candidate is given the opportunity to deliver a set speech following which electors have the opportunity of asking questions to which each candidate is invited to reply. In the current seven electoral districts with a dozen or so candidates it is not possible to take a large number of questions. Nonetheless these meetings still attract a large number of electors. Indeed in the 2008 General Election of People's Deputies at least one electoral district held two hustings. In that election several districts also held one-to-one 'surgeries'.

## 27. **Polling Stations**

- (a) Polling stations are set up and run by the Constables and Douzeniers of the parishes.<sup>10</sup> There are two polling stations in each electoral district with the exception of West district which currently has five. Generally the parish officials act as scrutineers although in some parishes they are assisted to a greater or lesser extent by other helpers. The States meet the costs incurred in providing polling stations.
- (b) In the larger polling stations such as the Vale Douzaine Room eight polling booths are provided whereas in the smaller polling stations like Torteval only one booth is required. Some electors will take only a few seconds to mark their ballot paper whilst others may take a minute or more. At peak times small queues of voters will form but in general voters are processed in a relatively short period of time.

## 28. **Vote Count**

At the close of voting all the ballot boxes in each electoral district are taken to one venue where the votes for the entire district will be counted together. The votes are counted, in accordance with procedures set out by the Registrar-General of Electors, by parish officials and other helpers. The Committee wishes to record, on behalf of the States, its appreciation for the work relating to elections done by those officials and helpers. In the past two General Elections the results have been declared in most districts between 11.00 p.m. and 2.00 a.m.

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<sup>10</sup> Article 38 (1) of the Reform (Guernsey) Law, 1948, as amended

– that is some three to five hours after the close of the poll. Costs associated with the count are borne by the States.

## 29. **Estimated Cost<sup>11</sup>**

The cost of running the 2008 General Election of People’s Deputies was £71,306. However, should it be decided to introduce electronic counting of votes, which would enable an earlier declaration of results, the cost of hiring the necessary equipment would increase by an estimated £25,000 making an approximate total cost in the region of £96,000.

## 30. **Effect of modification of numbers**

Reducing the number of People’s Deputies would result in a reallocation of seats as follows: -

<b>District</b>	<b>Population<sup>12</sup></b>	<b>45 seats</b>	<b>40 seats</b>	<b>38 seats</b>	<b>35 seats</b>	<b>30 seats</b>
<b>St. Peter Port South</b>	7,843	6	5	5	5	4
<b>St. Peter Port North</b>	8,742	7	6	6	5	4
<b>St. Sampson</b>	8,592	6	6	5	5	4
<b>Vale</b>	9,573	7	6	6	6	5
<b>Castel</b>	8,975	7	6	6	5	5
<b>West</b>	7,406	6	5	5	4	4
<b>South-East</b>	8,676	6	6	5	5	4
	<b>59,807</b>	<b>45</b>	<b>40</b>	<b>38</b>	<b>35</b>	<b>30</b>

- (a) The practical effect of reducing the number of People’s Deputies in each of the present electoral districts is minimal. Fewer seats will not necessarily mean fewer candidates. There would be a marginal reduction overall in the time spent by electors in the polling booths. The counting of votes may be completed a little quicker. The cost of running the election would not change significantly unless there was a corresponding reduction in the number of candidates.
- (b) Having regard to the present rates of Payments to States Members, and taking into account the basic allowance, the expense allowance and the

<sup>11</sup> Throughout this report “Estimated Cost” includes the total cost associated with a General Election, but excluding the cost of establishing and maintaining an Electoral Roll which is the responsibility of the Home Department. However, the costs in that regard are unlikely to vary significantly between the various methods of electing People’s Deputies other than those schemes which require elections at less than four-year intervals in which case the cost may be significantly higher.

<sup>12</sup> In this section the figures relating to the population of parishes are taken from the 2001 Census which is the most recent data available relating to parish population – see Appendix 3 for details.

States' contribution to the Pension Fund, the cost of payments to States Members would reduce as follows:

- reduction of 5 Members      £147,500 per annum
- reduction of 10 Members    £295,000 per annum
- reduction of 15 Members    £442,500 per annum

**(ii) 45 ISLAND-WIDE DEPUTIES ELECTED IN A SINGLE ELECTION**

**31. Overview**

- (a) All Members of the States would be Island-wide Deputies. This method of election would afford the widest choice possible – every elector, regardless of where he or she resides, would be free to choose from the entire list of candidates. Electors would be able to vote for up to 45 candidates although trends in previous elections indicate that most voters would probably use fewer votes than the maximum permitted.
- (b) The views of the Electoral Reform Society regarding this option are set out in paragraph (b) of Appendix 5.

**32. Candidates**

The average number of candidates in the 2004 and 2008 General Elections was 85. In the 1994 and 1997 Island-wide elections of Conseillers some candidates did carry out door-to-door canvassing. However, it was apparent that candidates targeted certain areas rather than attempting to visit every elector as some candidates do in the existing district elections. Candidates' expenses would continue to be limited by Ordinance. Even if it were possible for every candidate to visit every elector it is doubtful whether many electors would welcome a visit from so many candidates.

**33. Electors**

Island-wide voting would require electors to read numerous manifestos. Some electors may find this a daunting task; others will consider this perfectly acceptable in order to be able to vote for all Members of the States. Even if each candidate were to be restricted to only 700 words, that would be equivalent to reading approximately 85 pages of print<sup>13</sup>. Electors would be able to cast their votes at any polling station within the parish in which they reside, as was the case in the 1994 and 1997 Island-wide elections.

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<sup>13</sup> Based on 85 candidates. One standard A4 page printed in 12 point Times New Roman contains between 500 and 700 words depending on the margins set.



### 34. Manifestos

- (a) Manifestos are the primary means available to candidates to communicate their views to the electorate. Indeed they would assume an even greater importance in Island-wide elections where it would be almost impossible to visit each elector.
- (b) In respect of the Island-wide elections held in 1994 and 1997, candidates' manifestos were published in a free newspaper distributed as a supplement to the Guernsey Evening Press and Star. Each candidate was allocated one page. The cost of printing was borne by the States: candidates were required, at their own expense, to deliver camera-ready artwork to the printers. It was a condition in the 1994 and 1997 elections that candidates had to have served for at least 30 months as a Member of the States prior to the election.
- (c) Despite the use of a 'manifesto newspaper' in 1994 and 1997, the Committee does not feel able to recommend that method of distribution in respect of future Island-wide elections. The website of the Guernsey Press and Star states that the newspaper is "*read by 8 out of 10 of the population*". In terms of delivering manifestos this could mean that 20% of the electorate may not receive a copy. Additional copies of the newspaper could, of course, be made available throughout the Island (as was done in 1994 and 1997) but the Committee believes it to be unacceptable that a significant number of electors may not have sight of the manifestos.
- (d) The Committee therefore recommends that all manifestos should be delivered to each household occupied by at least one elector and that the cost of delivery be borne by the States.
- (e) As was the case in 1994 and 1997 candidates would be required to submit camera-ready artwork to a designated printer. Candidates would be required to share the cost of printing, packaging and labelling the collective manifesto document. This would be done on the basis of a fixed cost per page which would be determined prior to the opening of nominations. It would, however, be open to candidates not to participate in the scheme but they would still have to carry out their campaign within the spending limits prescribed by Ordinance.
- (f) The question as to whether candidates should bear none, or some, or all of the costs of issuing the Election newspaper was referred to in the Committee's Second Report. The Committee, by a majority, holds the view that it would not be unreasonable to require candidates who wished to be included in the 'manifesto' publication to meet the cost of printing, packaging and labelling. That being so candidates should be informed of the cost in advance of agreeing to take part in the publication. It is

envisaged that the cost of participating in the publication would be part of, and not in addition to, the maximum amount prescribed by Ordinance.

- (g) In the 2008 General Election the two candidates who subsequently asked voters not to vote for them spent nothing. In respect of the remaining 86 candidates the amount expended ranged from £12.60 to £1,397.92. The maximum allowable<sup>14</sup> was £1,400. The average spent by elected candidates was £833 and by candidates who were not elected was £580. This can be further analysed as follows:

<b>Amount Spent</b>	<b>Number of Candidates</b>
£0-£200	7
£201-£400	13
£401-£600	19
£601-£800	15
£801-£1000	13
£1001-£1200	7
£1201-£1400	14

The Committee does not believe that potential candidates would be deterred from standing by having to make a contribution towards the cost of the manifesto.

- (h) One alternative to the proposed single delivery of all candidates' manifestos would be to continue the present subsidised postage scheme described more fully in paragraph 25 and Appendix 2. Whereas in the current district elections manifestos are posted to approximately 80% of the households occupied by at least one elector, it is likely that an even higher percentage of postings would be made in an Island-wide election
- (i) The advantage of candidates arranging their own postal distribution of manifestos is that they retain full control over the style and presentation of the document which might vary from a single sheet printed in black ink to a multi-page, full colour glossy booklet. The publication referred to in (e) above would require conformity to a greater or lesser degree with a standard size. The cost, however, of postal distribution would be considerable – both for the States and the candidates themselves. Candidates would also be constrained by time in that a distribution to each household occupied by at least one elector would require the preparation of over 18,000 envelopes. If a manifesto were to be addressed to each elector that would require the filling of over 33,000 envelopes.

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<sup>14</sup> Prescribed by the Elections Ordinance, 2007

- (j) Further details regarding the cost of distributing manifestos are set out in the section headed “Estimated Cost”.

### 35. **Hustings**

- (a) With a limited number of candidates, hustings provide a useful means of establishing two-way communication between the electorate and the candidates. Importantly the electorate is able to gauge the ability of the candidates to answer questions under pressure and to hear their opinion on various issues but it would clearly be impossible to hold traditional hustings with the anticipated number of candidates. In the 1994 election when there were 26 candidates, each candidate spoke for no more than five or six minutes at each of the seven hustings.
- (b) Whilst hundreds of electors attend hustings across the Island, other ways of conducting public interaction between the candidates and the electorate are required. The Committee noted that the one-to-one ‘surgeries’ held in several electoral districts in the 2008 General Election were successful. These comprised full-day or half-day events when all or most of the candidates assembled together. Electors were able to engage candidates on a one-to-one basis. This means of engagement appears to have been appreciated both by the candidates and the electors. This would be an appropriate means of providing for the public and candidates to interact in the context of an Island-wide election. Several such meetings could be held in large venues.
- (c) It is envisaged that future candidates are likely to use the internet increasingly and indeed a number of candidates in the 2008 General Election set up comprehensive websites. The Committee has considered whether candidates’ manifestos could be included in a dedicated section of the States’ website and believes that there is merit in the idea and that it should be pursued regardless of what method of election is finally agreed.
- (d) The media, both written and spoken, will have an even more important part in disseminating candidates’ views to the electorate.

### 36. **Polling Stations**

- (a) Electors will be handed a ballot paper containing the names of all the candidates. Even those who attend with a pre-prepared list will still take some time to vote, in particular when they use all or most of their votes. Under the current system some electors do not take long to vote whilst others take several minutes to choose up to seven names from perhaps 14 candidates.
- (b) This could result in logistical issues for the polling stations. At present the smaller polling stations have just one polling booth whilst some of

the larger polling stations have eight polling booths. This could mean that the smaller polling stations would need three or four polling booths with the larger polling stations needing perhaps 30 or more.

- (c) This would result in several of the existing polling stations being of inadequate size. A further consequence of electors taking longer to complete their voting papers is that more people means more cars – and car parking is already an issue at some polling stations under the present system.
- (d) Ballot papers would be substantially larger than present ballot papers. Existing ballot boxes would clearly not be sufficient but this factor is dealt with in greater detail in the following section relating to the counting of votes.
- (e) The Committee notes that at present polling stations are open from 8.00 a.m. to 8.00 p.m. in the two St. Peter Port electoral districts and from 10.00 a.m. to 8.00 p.m. in all other electoral districts. The Committee is not aware of any dissatisfaction with regard to the current polling hours. The States are heavily reliant on the goodwill of parish officials and their helpers in running the polling stations and (other than in St. Peter Port) there has always been resistance to opening the polls earlier. On balance the Committee does not see any need to vary the hours of polling but it would certainly be the case that extending the polling hours would help to mitigate some of the difficulties identified earlier in this section of the Report.
- (f) Previously consideration has been given as to whether there would be any merit in moving election day from Wednesday to Saturday.<sup>15</sup> At that time five Douzaines favoured, or raised no objection to, moving election day to Saturday; four preferred remaining with Wednesday and one Douzaine was equally divided. The Douzaines were thus fairly evenly divided as to whether elections should be held on Wednesdays or Saturdays.
- (g) Research conducted in other jurisdictions indicates that the pros and cons of weekday as opposed to weekend elections are broadly in balance. That being so, and having regard to the mixed views of the Douzaines, it was concluded in 2007 that as the arguments in favour of holding the General Election on a Saturday were inconclusive, the elections should continue to be held on a Wednesday for the time being.
- (h) The Committee would certainly not recommend any changes regarding either extended polling hours or weekend elections without first consulting all the Douzaines.

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<sup>15</sup> Billet d'État XVI of 2007, Article 14

**37. Vote Count**

- (a) 18,576 electors voted in the 2008 General Election. If, in an election for 45 Island-wide Deputies, the same number of voters used 70% of the maximum number of votes possible, that would amount to over 585,000 votes. In the 2008 General Election just over 91,000 votes were cast. These figures indicate that in an Island-wide election there could be a six-fold increase in the number of votes to be counted. More conservatively it can be assumed that there would at least be a quadrupling of the number of votes cast.
- (b) In all of the present electoral districts large teams of people work diligently in the counting of votes after the poll has closed. However, the present system is both labour-intensive and time-consuming. With a considerably larger number of candidates and votes to be counted the margin of error is likely to increase.
- (c) Whilst a manual count would not be impossible, it would take so long that the introduction of Island-wide voting effectively makes it essential to employ electronic equipment to count the votes. Electronic counting is used by some UK authorities but, because the machines are used relatively infrequently, they are hired rather than purchased. There are a number of UK companies that specialise in hiring out such equipment which may include peripheral items such as special ballot boxes which ensure that ballot papers are not folded (creased ballot papers are prone to being rejected by the machinery and as a consequence have to be processed manually).

**38. Estimated Cost**

- (a) General costs are estimated at £40,000, electronic counting at £25,000 and the full cost of delivering a 'manifesto' package to each household occupied by at least one elector would be in the region of £19,000. The overall cost, therefore, for a single Island-wide election held every four years with manifestos delivered as set out in paragraph 34 is estimated to be £84,000.
- (b) If, however, manifestos were to be delivered by post under the current scheme, (i.e. individual mailings by candidates) the cost to the States for postage alone would be in excess of £260,000 for a mailing to each household occupied by at least one elector and in excess of £480,000 if manifestos were posted to each elector individually. To those figures has to be added the general costs of £40,000 and electronic counting cost of £25,000. The overall cost, therefore, for a single Island-wide election held every four years with manifestos delivered by post would range from £325,000 to £545,000.

- (c) In addition to the figures estimated in (a) and (b) above, the provision of additional polling booths as identified in paragraph 36 could be in the region of £7,500, although this would be a one-off cost.

**39. Effect of modification of numbers**

A reduction in the number of Members of the States would have no adverse consequences on this method of election. Indeed the converse is true – reducing the number of seats would mitigate some of the difficulties set out in paragraphs 34, 36 and 37. However, a reduction in the number of seats does not necessarily mean a reduction in the number of candidates. The potential savings identified in paragraph 30 (b) would apply equally in this case.

**(iii) 45 ISLAND-WIDE DEPUTIES – HALF ELECTED EVERY TWO YEARS**

**40. Overview**

- (a) All Members would be elected as Island-wide Deputies but with one half of the Deputies being elected every two years for a four year term. If it is believed that the scheme set out in section (ii) places too great a burden on the electorate in having to consider manifestos from a large number of candidates then this scheme would require the voters to consider the manifestos of fewer candidates. Those who favour this option consider it to be more practicable. It also offers opportunities for mid-term elections for membership of departments and committees.
- (b) For many years the practice has been that the States of Deliberation do not meet (other than in an emergency) in the period between the opening of nominations and the 30<sup>th</sup> April in the year of a General Election. Thus the last meeting before a General Election takes place in mid-March. This minor hiatus to policy-making would take place every two years under this scheme.
- (c) This scheme would need to be implemented in stages, as follows. The 2012 election would be held in the current seven electoral districts. The top three successful candidates in each district would be elected to serve for four years to 2016. In one of the seven-seat districts the candidate placed fourth would also serve a four-year term (this is necessary to provide for an ongoing 22/23 split in subsequent years.) The remaining successful candidates in each district would be elected for only two years to 2014. In 2014 those vacated seats would be contested on an Island-wide basis. Similarly in 2016 when the term of office of those Members elected in 2012 for four years would expire, those seats would be contested on an Island-wide basis.

**41. Candidates**

- (a) Although the number of seats being contested would be only one half of the total, it does not necessarily follow that the number of candidates will

also be halved. It is expected that the number of candidates in an Island-wide election for half the seats every two years would be between 50 and 80. Candidates would need to be proposed and seconded by two people whose names were inscribed on the Electoral Roll.

- (b) In the 1994 and 1997 Island-wide elections of Conseillers some candidates did carry out door-to-door canvassing. However, it was apparent that candidates targeted certain areas rather than attempting to visit every elector as some candidates do in the existing district elections. Candidates' expenses would continue to be limited by Ordinance. Even if it was possible for every candidate to visit every elector it is doubtful whether many electors would welcome a visit from such a large number of candidates.

#### 42. **Electors**

This scheme would also result in electors having to read and digest literature from many candidates. Based on a possibility of 60 candidates, if each of them were to be restricted to only 700 words, that is equivalent to reading approximately 70 pages of a Billet d'État. Electors would be able to their cast their votes at any polling station within the parish in which they reside, as was the case in the 1994 and 1997 Island-wide elections. A further issue is that electing one half of the Assembly every two years would mean that there would be no General Election in which the electorate could express its opinion on the States as a whole. In addition, requiring voters to turn out every two years may result in a degree of voter apathy.

#### 43. **Manifestos**

Paragraph 34 applies equally to this scheme.

#### 44. **Hustings**

Paragraph 35 applies equally to this scheme.

#### 45. **Polling Stations**

The details set out in paragraph 36 apply to this scheme, but not to the same extent. Electors will be required to select up to 22/23 candidates rather than the 45 in the single election scheme. That said, polling stations would still need increased capacity, particularly with regard to the provision of polling booths and, in some cases, car parking.

#### 46. **Vote Count**

- (a) 18,576 electors voted in the 2008 General Election. If, in an election for 22 Island-wide Deputies, that same number of voters used 70% of the

maximum number of votes possible that would amount to over 286,000 votes. In the 2008 General Election just over 91,000 votes were cast. Thus there could be a three-fold increase in the number of votes to be counted.

- (b) Sub-paragraphs (b) and (c) of paragraph 37 apply equally to this scheme.

#### 47. **Estimated Cost**

- (a) The cost of this scheme would certainly be considerably more than any of the other schemes set out in this report as the electoral system would have to be set up every two years rather than every four years. The Home Department has also expressed strong reservations regarding electoral roll costs should this scheme be pursued: the Department's comments are attached as Appendix 4.
- (b) General costs for a four-year period (i.e. two elections) are estimated at £80,000, electronic counting at £50,000 and the full cost of delivering a 'manifesto' package to each household occupied by at least one elector would be in the region of £38,000. The overall cost, therefore, for two Island-wide elections in each four-year period with manifestos delivered as set out in paragraph 34 is estimated to be £168,000.
- (c) If, however, manifestos were to be delivered by post under the current scheme (i.e. individual mailings by candidates), the cost to the States for postage alone would be in excess of £340,000 for a mailing to each household occupied by at least one elector and in excess of £640,000 if manifestos were posted to each elector individually. To those figures has to be added the general costs of £80,000 and electronic counting cost of £50,000. The overall cost, therefore, for two Island-wide elections in each four-year period with manifestos delivered by post would range from £470,000 to £770,000.
- (d) In addition to the figures estimated in (b) and (c) above, the provision of additional polling booths as identified in paragraph 36 could be in the region of £7,500, although this would be a one-off cost.

#### 48. **Effect of modification of numbers**

Paragraph 39 applies equally to this scheme.

- (iv) **35 ISLAND-WIDE DEPUTIES ELECTED IN A SINGLE ELECTION WITH 10 PARISH DEPUTIES ELECTED THE SAME DAY**

#### 49. **Overview**

- (a) This scheme is a step towards full Island-wide voting: whilst it is not a full Island-wide voting system it does introduce an element of Island-



wide voting. This would not be a novel innovation in the constitution of the States.

- (b) Many Islanders regretted the end of direct parish representation when the office of Douzaine Representative was abolished in 2004. The principal objection to Douzaine Representatives was that although they were elected as Douzeniers they were not chosen by the electorate as Members of the States. This would not, however, be the case with the proposed Parish Deputies who would be elected by the people on the same day as the election of Island-wide Deputies.
- (c) This scheme addresses the criticism that a full or indeed a partial move to Island-wide voting is likely to diminish further the constituency links between the electors and the People's Deputies. In the present Assembly, for example, no Deputies reside in either St. Saviour's or Torteval. Under this scheme each parish would have one States Member mandated to have special regard to the particular interests of the parish. However, it is acknowledged that one of the disadvantages in single-seat systems is that they may, in certain circumstances, be perceived to be "safe seats" for the incumbent.
- (d) Under this scheme there would be some imbalance in favour of the smaller parishes as each parish would have one Parish Deputy. Many jurisdictions do, however, have such a representational imbalance in the constitutions of their parliaments for the very purpose of giving a fair voice to communities which are insignificant numerically.
- (e) Earlier, reference was made to the possibility that these positions could be perceived to be "safe seats". For that reason it is proposed, by a majority, that Parish Deputies be restricted to serve one term only in that office. If, at the end of the term, they wished to continue as a Members of the States they would be required to seek election as Island-wide Deputies.
- (f) The 35 Island-wide Deputies would be elected by Island-wide franchise. The election of Parish Deputies and Island-wide Deputies would be held on the same day. Candidates would not be able to compete in both elections – they would have to decide whether they wished to stand either for the parish seat or one of the Island seats.

## 50. **Candidates**

- (a) Candidates for the office of Parish Deputy would need to be proposed and seconded by two people whose names were inscribed on the Electoral Roll of the parish concerned. Insofar as the election of the Island-wide Deputies is concerned, the parish on whose Electoral Roll the names of the proposers and seconders are inscribed would be

irrelevant. Sub-paragraph (b) of paragraph 41 applies equally to the Island-wide elections part of this scheme.

- (b) A further point with regard to this scheme is that the 10 Parish Deputies would account for about 21% of the Assembly. Whilst it is correct that there would be 10 new Parish Deputies at each election it does not necessarily follow that the 10 Parish Deputies vacating that office would cease to be States Members. Indeed the Committee believes that the majority of them would seek election as Island-wide Deputies.

**51. Electors**

Paragraph 42 applies equally to this scheme. However, in addition, electors would also be faced with a small number of manifestos received from the candidates seeking election to the office of Parish Deputy.

**52. Manifestos**

Paragraph 25 applies equally to this scheme with regard to candidates for the office of Parish Deputy. Paragraph 34 applies equally to this scheme insofar as Island-wide elections are concerned.

**53. Hustings**

- (a) Sub-paragraph (a) of paragraph 26 applies equally to this scheme insofar as it relates to the election of a Parish Deputy. Indeed, given the likelihood that there would be fewer candidates for the single Parish Deputy's seat than there are for the current six or seven People's Deputies, candidates for Parish Deputy would probably face a greater number of questions at the hustings.
- (b) Paragraph 35 applies equally to this scheme insofar as it relates to the Island-wide election.

**54. Polling Stations**

The details set out in paragraph 36 apply to this scheme, but with modifications. The number of candidates in the Island-wide election would probably be less given that some candidates would, instead be seeking election as Parish Deputies. However, whatever marginal gain arises in that regard, will be negated by the fact that candidates would be given two ballot papers – one for the Parish Deputy's election and one for the Island-wide election. This would also give more work for the polling station officials. If two ballot boxes were used (one for each election) then an official would need to supervise the placing of the votes in the boxes to ensure that the votes were not placed in the incorrect box.

## 55. **Vote Count**

- (a) In the previous paragraph reference is made to the possibility of using two ballot boxes to ensure, as far as possible, that the voting slips of the two elections were not mixed. However, experience in the United Kingdom indicates that however much care is taken, a few voting slips will inevitably be placed in the wrong container. As a preliminary to counting, therefore, both boxes would need to be opened to ensure that there were no Parish Deputy votes amongst the Island-wide votes, and vice-versa.
- (b) The votes relating to the Parish Deputy's election would be counted by parochial officials manually. Where there is only one candidate the process is very simple and takes relatively little time – certainly less than an hour in the smaller parishes.<sup>16</sup>
- (c) Paragraph 37 applies equally to this scheme insofar as it relates to the Island-wide election.

## 56. **Estimated Cost**

- (a) General costs are estimated at £50,000, electronic counting at £25,000 and the full cost of delivering a 'manifesto' package to each household occupied by at least one elector would be in the region of £11,000. The overall cost, therefore, for a single Island-wide election held every four years with manifestos delivered as set out in paragraph 34 together with the election on the same day of one Parish Deputy in each parish, is estimated to be £86,000.
- (b) If, however, Island-wide manifestos were to be delivered by post under the current scheme (i. e. Individual mailings by candidates), the cost to the States for postage alone would be in excess of £170,000 for a mailing to each household occupied by at least one elector and in excess of £320,000 if manifestos were posted to each elector individually. To those figures has to be added the general costs of £50,000 and electronic counting cost of £25,000. The overall cost, therefore, for a single Island-wide election held every four years with manifestos delivered by post together with the election on the same day of one Parish Deputy in each parish, would range from £245,000 to £395,000.
- (c) In addition to the figures estimated in (b) and (c) above, the provision of additional polling booths as identified in paragraph 36 could be in the region of £7,500, although this would be a one-off cost.

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<sup>16</sup> Prior to the establishment of multi-parish electoral districts in 2004 it was not unusual for single-seat parishes to declare the result within 15-20 minutes of the close of polling.

**57. Effect of modification of numbers**

In general paragraph 39 applies equally to the Island-wide element of this scheme. It would have no effect on the Parish Deputy element as the substance of that part of the scheme is that each parish has one such representative and ten is therefore the minimum number without destroying the rationale for having Parish Deputies.

**(v) RESTRICT THE NUMBER OF VOTES WHICH ELECTORS MAY CAST**

**58. Overview**

- (a) In the Committee's Second Report reference was made to the additional comments which were sought in the public consultation. One such comment was that if Island-wide voting was introduced, each elector should be limited to 10 votes. Some members of the Committee, in supporting that view, believed that restricting the number of votes would not have an effect on the outcome of the election but would result in a greater efficiency in the electoral process. Other members of the Committee, however, believed that the electors should be entitled to vote for as many candidates as there are seats available.
- (b) The views of the Electoral Reform Society regarding this option are set out in paragraph (c) of Appendix 5.
- (c) A majority of the Committee believe that restricting the number of votes would result in a greater efficiency in the electoral process. If that premise is accepted then it follows that as the number of votes given to each elector increases the efficiency of process achieved will diminish. The converse is also true – if electors were to be allocated fewer votes the efficiency would increase.

**59. Candidates**

Limiting the number of votes which each elector may cast is unlikely to have any effect on the number of candidates but candidates themselves may feel under greater pressure to obtain every possible vote given that the total number of votes cast would be reduced to between 25% and 45% of the total number of seats being contested, depending on which scheme was introduced.

**60. Electors**

Electors may be less daunted by having to choose not more than ten candidates from a list of perhaps 90 or 100 but it is contrary to one of the arguments in favour of Island-wide voting that every elector should have the opportunity of voting for (or not voting for) every candidate.

61. **Manifestos**

There are no implications which relate to manifestos.

62. **Hustings**

There are no implications which relate to hustings.

63. **Polling Stations**

The logistical difficulties regarding polling stations identified in earlier sections would be reduced to some degree as selecting up to ten candidates is very likely to take less time than selecting 45, 35 or 22 candidates. However, voters would still have a large ballot paper to contend with as this option would not result in a reduction in the number of candidates.

64. **Vote Count**

In earlier paragraphs it is noted that electronic counting of votes is considered to be essential in any Island-wide vote which involves a large number of candidates. That being so placing a limit on the number of votes available to each elector is unlikely to have any major impact if the votes are counted electronically. However, should a manual count of votes take place then there would be a significant reduction in the time required to complete the count.

65. **Estimated Cost**

This option is considered to be cost neutral.

66. **Effect of modification of numbers**

A reduction in the total number of seats contested would have no effect on this option.

**(vi) CHIEF MINISTER ELECTED ISLAND-WIDE, 10 ISLAND-WIDE DEPUTIES AND 34 DISTRICT DEPUTIES ELECTED THE SAME DAY**

67. **Overview**

(a) This proposal envisages three elections being held on the same day for the following offices:

- A Chief Minister;
- 10 Island-wide Deputies;

- 34 Electoral District Deputies.
- (b) This proposal goes much further than simply prescribing the method of election of certain offices. Electing the Chief Minister by universal suffrage would have a fundamental impact on the present system of government which should not be under-estimated. The Committee believes that there is a strong possibility that such an election would lead to the establishment of a presidential system being introduced. In the Committee's view if substantial powers were vested in the holder of that office this would have an adverse effect on Guernsey's system of consensus government.
- (c) The proposers of the amendment included the provision that candidates for the office of Chief Minister shall be eligible in accordance with Rule 20 (2A) of the Rules of Procedure of the States of Deliberation. The precise text of that Rule is as follows:

*“Any Member of the States shall be eligible to hold the office of Chief Minister provided that he shall have held the office of People's Deputy for a period of not less than four years in the eight years immediately preceding the date set for the election of a Chief Minister”.*

- (d) As presently drafted the effect of that Rule would mean that a person who first commenced service as a Member of the States on 1<sup>st</sup> May 2008 would be ineligible to seek election as Chief Minister in April 2012 as, at the date of election, they would not have been a People's Deputy *“for a period of not less than four years”*. Similarly, a person who had served for many years but who was not currently a Member of the States on the date of the election would also be ineligible as the Rule presently restricts the office of Chief Minister to a *“Member of the States”*.
- (e) It is, however, assumed that the proposers of the amendment were not seeking to exclude the candidature of such persons. That being so, if this scheme were to find favour with the States, it would be necessary to remove the anomalies identified above. In any event if the Chief Minister were to be elected by the electorate legislation would be required. It would therefore no longer be a matter for regulation by Rules of Procedure.

## 68. **Candidates**

- (a) The 34 seats would be distributed between the seven electoral districts as follows:

<b>District</b>	<b>Population</b>	<b>34 seats</b>
<b>St. Peter Port South</b>	7,843	5
<b>St. Peter Port North</b>	8,742	5
<b>St. Sampson</b>	8,592	5
<b>Vale</b>	9,573	5
<b>Castel</b>	8,975	5
<b>West</b>	7,406	4
<b>South-East</b>	8,676	5
	<b>59,807</b>	<b>34</b>

- (b) The Chief Minister and the 10 Island-wide Deputies would be elected by Island-wide franchise. The election of Electoral District Deputies and Island-wide Deputies would be held on the same day. Candidates would not be able to contest both elections – they would have to decide whether they wished to stand either for a district seat or one of the Island seats. Those who choose to stand in the Island-wide election and who are eligible pursuant to (an amended) Rule 20(2A), would also have to consider whether they wished to seek election for the office of Chief Minister.
- (c) Given that the ratio of district seats to Island-wide seats is 3:1 it is assumed (for the purpose of this report) that the candidates would be in a similar ratio in which case it is possible that there might be 25 candidates in the Island-wide election and 77 candidates in the district elections (i.e. 11 in each district). In the 1994 General Election 26 candidates contested the 12 seats for the office of Conseiller.

#### 69. **Electors**

Electors would be faced with literature from two sets of candidates. However, given that the Island-wide candidates' manifestos would probably be in the form of a newspaper supplement and the district candidates in traditional form, confusion between the two elections is not likely. Electors would be able to cast their votes at any polling station situated in the electoral district in which they reside.

#### 70. **Manifestos**

Paragraph 25 applies equally to this scheme with regard to candidates for the office of Parish Deputy. Paragraph 34 applies equally to this scheme insofar as Island-wide elections are concerned.

#### 71. **Hustings**

The 'traditional' form of hustings described in paragraph 26 could continue with regard to the election of district deputies. It might also be possible with regard to the Island-wide elections although it is noted that in the 1994 election of Conseillers with 26 candidates each candidate spoke for no more than five or six

minutes at each of the seven hustings. Indeed an additional difficulty arises under this scheme in that some of the Island-wide candidates would also be seeking election as Chief Minister and it is probably inevitable that many electors would choose to focus questions on the candidates for that office rather than generally. That being so the Committee believes that it would be necessary to hold separate hustings solely for those seeking election to the office of Chief Minister.

## 72. **Polling Stations**

- (a) Electors would be handed two ballot papers – one for the election of district Deputies and one for the election of Island-wide Deputies. It is envisaged that the latter would also incorporate the ballot for the office of Chief Minister. Under the current system it is noticeable that some electors take several minutes to choose their preferred candidates. Each elector is likely to take at least twice as long to vote in the two elections.
- (b) This could result in serious logistical issues for the polling stations. At present the smaller polling stations have just one polling booth whilst some of the larger polling stations have eight polling booths. This could mean that the smaller polling stations would need two or three polling booths with the larger polling stations needing perhaps 16 or more.
- (c) Consequently several of the existing polling stations would be of inadequate size. A further consequence of electors taking longer to complete their ballots is that more people means more cars – and car parking is already an issue at some polling stations under the present system.
- (d) Two ballot papers would also give more work for the polling station officials. If two ballot boxes were used (one for each election) then an official would need to supervise the placing of the votes in the boxes to ensure that the votes were not placed in the incorrect box.

## 73. **Vote Count**

- (a) In the previous paragraph reference is made to the possibility of using two ballot boxes to ensure, as far as possible, that the voting slips of the two elections were not mixed. However, experience in the United Kingdom indicates that however much care is taken, a few voting slips will inevitably be placed in the wrong container. As a preliminary to counting, therefore, both boxes would need to be opened to ensure that there were no District Deputies' votes amongst the Island-wide votes, and vice-versa.
- (b) The votes relating to the District Deputies' election would be counted by parochial officials manually at a central location within the electoral district. The number of seats in each district (and also probably the numbers of candidates) would be fewer than at present so it should be



possible for the votes to be counted manually, with a result being declared somewhat earlier than has been the case in the last two General Elections.

- (c) However, given that the parish officials would be fully engaged in counting the votes in the District elections it would be necessary to have a different team available at a central location to count the Island-wide votes. This might, for example, involve seeking volunteer civil servants to carry out the task. Given also that two counts would be necessary (i.e. the Island-wide deputies votes and also the Chief Minister's votes) it would be necessary to employ electronic counting.
- (d) In the 1994 General Election of Conseillers a recount of the entire vote was requested because of the very close margin between the 12<sup>th</sup> and 13<sup>th</sup> places. This was carried out by a team of about 80 people and took in excess of 12 hours.

#### 74. **Estimated Cost**

- (a) General costs are estimated at £74,000, electronic counting at £25,000 and the full cost of delivering a 'manifesto' package to each household occupied by at least one elector would be in the region of £11,000. The overall cost, therefore, for a single Island-wide election coupled with a Chief Minister's election held every four years, with manifestos delivered as set out in paragraph 34, together with the election on the same day of Electoral District Deputies, is estimated to be £110,000. The election of a Chief Minister would not add materially to the overall cost of the Island-wide election.
- (b) If, however, manifestos in the Island-wide elections were to be delivered by post under the current scheme (i.e. individual mailings by candidates), the cost to the States for postage alone would be in excess of £70,000 for a mailing to each household occupied by at least one elector and in excess of £130,000 if manifestos were posted to each elector individually. To those figures has to be added the general costs of £74,000 and electronic counting cost of £25,000. The overall cost, therefore, for a single Island-wide election coupled with a Chief Minister's election held every four years, with manifestos delivered by post, together with the election on the same day of Electoral District Deputies, would range from £169,000 to £229,000.
- (c) In addition to the figures estimated in (b) and (c) above, the provision of additional polling booths as identified in paragraph 36 could be in the region of £7,500, although this would be a one-off cost.

#### 75. **Effect of modification of numbers**

A reduction in the number of Members of the States would have no adverse consequences on this method of election. However, a reduction in the number of

seats does not necessarily mean a reduction in the number of candidates. The potential savings identified in paragraph 30 (b) would apply equally in this case.

**(vii) 11 ISLAND-WIDE DEPUTIES AND 34 DISTRICT DEPUTIES ELECTED THE SAME DAY**

**76. Overview**

- (a) This proposal envisages two elections being held on the same day for the following offices:
- 11 Island-wide Deputies;
  - 34 Electoral District Deputies.
- (b) It is, in effect, a variation of scheme (vi), the difference being that 11 rather than 10 Island-wide Deputies are elected and the election of a Chief Minister is excluded from this process.

**77. Candidates**

- (a) The 34 seats would be distributed as set out in the table in paragraph 68.
- (b) The 11 Island-wide Deputies would be elected by Island-wide franchise. The election of Electoral District Deputies and Island-wide Deputies would be held on the same day. Candidates would not be able to contest both elections – they would have to decide whether they wished to stand either for a district seat or one of the Island seats.
- (c) Given that the ratio of district seats to Island-wide seats is 3:1 it is assumed (for the purpose of this report) that the candidates would be in a similar ratio in which case it is possible that there might be 25 candidates in the Island-wide election and 77 candidates in the district elections (i.e. 11 in each district). In the 1994 General Election 26 candidates contested the 12 seats for the office of Conseiller.

**78. Electors**

Paragraph 69 applies equally to this scheme.

**79. Manifestos**

Paragraph 25 applies equally to this scheme with regard to candidates for the office of Parish Deputy. Paragraph 34 applies equally to this scheme insofar as Island-wide elections are concerned.

**80. Hustings**

Paragraph 71 applies equally to this scheme.

81. **Polling Stations**

- (a) Electors would be handed two ballot papers – one for the election of district Deputies and one for the election of Island-wide Deputies. Under the current system it is noticeable that some electors take several minutes to choose their preferred candidates. Each elector is likely to take at least twice as long to complete vote in the two elections.
- (b) Sub-paragraphs (b) to (d) of paragraph 72 apply equally to this scheme.

82. **Vote Count**

Paragraph 73 applies equally to this scheme, save for the reference to the election of the Chief Minister.

83. **Estimated Cost**

Paragraph 74 applies equally to this scheme.

84. **Effect of modification of numbers**

Paragraph 75 applies equally to this scheme.

**(viii) 15 ISLAND-WIDE DEPUTIES ELECTED IN JUNE 2011 BY THE ELECTORATE OF GUERNSEY AND ALDERNEY, HAVING BEEN NOMINATED BY 2 PERSONS FROM EACH OF THE 7 GUERNSEY ELECTORAL DISTRICTS AND 30 DEPUTIES FROM THE EXISTING 7 ELECTORAL DISTRICTS (WITH TRANSITIONAL ARRANGEMENTS)**

85. **Overview**

- (a) This proposal includes:
- electing 15 Deputies Island-wide in June 2011 for a three-year term and thereafter for four-year terms;
  - including the Alderney electorate in the Island-wide poll;
  - requiring candidates to be nominated by two persons from each of the seven Guernsey electoral districts;
  - increasing the number of States Members on a transitional basis so as to accommodate the additional members elected in June 2011;
  - providing that only Island-wide Deputies shall be eligible to hold office as Chief Minister;

- vacating the offices of Chief Minister and ministers in June 2011 and replacing them with persons elected in the June 2011 Island-wide election.
- (b) Electing 15 Deputies in an Island-wide election would not be far removed from the situation in St. Peter Port from 1949 until 1973 when that parish elected 13 People’s Deputies. Under this scheme the Island-wide Deputies would be elected for three years – i.e. to 2014 and thereafter in 2018, 2022 etc. Elections of District Deputies would take place in 2016, 2020 etc. This would mean that General Elections would cease as there would be no occasion when all the Members of the States vacated office simultaneously.
- (c) Given that the ratio of district seats to Island-wide seats would be 2:1 it is assumed that the candidates would be in a similar ratio in which case it is possible that there might be 30 candidates in the Island-wide election. However, this election would not be taking place at the same time as the election of District Deputies and there is a reasonable likelihood that the number of candidates would therefore be greater.
- (d) This scheme proposes the participation of the Alderney electorate in the election of Island-wide Deputies. The Law<sup>17</sup> provides that “*The people of the Island of Alderney shall ... be entitled to be represented in the States of Deliberation by ... ‘Alderney Representatives’ ... two in number*”. The two Alderney Representatives therefore comprise 4.25% of the membership of the States of Deliberation although the population of Alderney is only 3.69% of the combined population of Guernsey and Alderney.
- (e) If the Alderney electorate were to participate in the election of 15 Island-wide Deputies it seems reasonable that it should then have only a proportional share of the remaining 32 seats in the Assembly in which case the allocation would be as follows:

<b>District</b>	<b>Population</b>	<b>32 seats</b>
<b>St. Peter Port South</b>	7,843	4
<b>St. Peter Port North</b>	8,742	5
<b>St. Sampson</b>	8,592	4
<b>Vale</b>	9,573	5
<b>Castel</b>	8,975	5
<b>West</b>	7,406	4
<b>South-East</b>	8,676	4
<b>Alderney</b>	2,294	1
	<b>62,101</b>	<b>32</b>

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<sup>17</sup> The States of Guernsey (Representation of Alderney) Law, 1978

- (f) Alderney participated in the Conseillers' elections in 1994 and 1997. In 1994 the turnout in Alderney was 37% compared to 65% in Guernsey and in 1997 it was 30% in Alderney and 43% in Guernsey which may be an indication of the likely level of interest which would arise should Alderney participate in Island-wide elections.
- (g) Regardless of all the foregoing, the Committee concludes that if this scheme is introduced, the question of Alderney's participation should be decided by the people of Alderney. It would therefore be for them to decide either to maintain the status quo or else participate in the Island-wide elections with the proviso that there would be only one Alderney Representative. The Projet de Loi required to achieve this would need to be approved by both the States of Deliberation and the States of Alderney.
- (h) This scheme requires each candidate to be sponsored by a proposer and seconder from each of the seven Guernsey electoral districts. Whilst this might nominally indicate a degree of Island-wide support it would serve no real purpose. It also seems somewhat illogical to the Committee that if Alderney is to participate in the election that it should not also be a requirement to have a proposer and seconder registered on the Alderney electoral roll.
- (i) The next element of this scheme is that the number of States Members be increased on a transitional basis to accommodate between 0 and 15 States Members elected in 2011 who do not at that time already have a seat in the States. This appears to be predicated on the basis that many – although possibly not all or even any – of the present ministers and Chief Minister would seek election as Island-wide Deputies so as to be able to continue as Chief Minister/ministers. The final element is that the present Chief Minister and ministers be required to vacate those offices in June 2011 and that their successors in office be elected from the newly-elected Island-wide Deputies.
- (j) From the wording used in the relevant amendment it would appear that its proposer and seconder intended that any current States Member who wished to seek election as an Island-wide Deputy would be required to resign his/her existing seat before being nominated as an Island-wide Deputy, hence the proviso that the number of seats overall be increased on a transitional basis. Should a large number of States Members offer themselves as candidates in the Island-wide election it would, effectively, bring the business of the States to a halt for some six weeks, as presently happens from mid-March to the end of April in General Election years.
- (k) There would be logistical issues with regard to seating in the States Chamber. Whilst it would be possible to accommodate two or three

additional Members it would certainly not be possible if ten or twelve additional seats were required.

- (l) Given the lead-in time required to run an election it is improbable, in any event, that this scheme could be introduced in June 2011. Of no small consequence is the fact that an Order in Council would be required. That being so it is unlikely that an election could be held before the autumn of 2011 – just six months before the scheduled 2012 General Election.

**86. Candidates**

Under this scheme the Chief Minister would have to seek election as an Island-wide Deputy in 2011 notwithstanding the fact that his term of office as a People's Deputy will not expire until 30<sup>th</sup> April 2012.

**87. Electors**

- (a) As stated in paragraphs 85 (b) and (c) the task of electing 15 Members in one election is not dissimilar to the previous elections of 13 Deputies in St. Peter Port although the potential number of candidates could be at the point where reading the manifestos becomes burdensome. A further issue is that electing one half of the Assembly every two years would mean that there would be no General Election in which the electorate could express its opinion on the States as a whole. In addition, requiring voters to turn out every two years may result in a degree of voter apathy.
- (b) Electors would be able to cast their votes at any polling station within the parish in which they reside.

**88. Manifestos**

Paragraph 34 applies equally to this scheme.

**89. Hustings**

- (a) Paragraph 35 (a) describes the hustings which took place in 1994. On that occasion there were 26 candidates and that appeared to be at or near the maximum which could be accommodated at that type of meeting. A traditional hustings might just be possible under this scheme but very short speech limits would have to be imposed.
- (b) Otherwise, paragraph 35 (b) and (c) applies.

**90. Polling Stations**

Choosing up to 15 candidates would clearly take longer than the time it presently takes to select up to seven candidates. Some polling stations may therefore require additional polling booths.

91. **Vote Count**

- (a) It would be theoretically possible for the votes to be counted on a parish by parish basis. However, given that there would be twice as many votes to count as there are in the present elections and considering that some declarations are not made until the early hours of the morning, it unlikely that the parish officials would welcome the task, given that many of them also run the polling stations throughout the day.
- (b) The more likely alternative, therefore, would be to count the votes electronically (see paragraph 37 (c) for further details).

92. **Estimated Cost**

- (a) The cost of this scheme would be high as the electoral system would have to be set up every two years rather than every four years. The Home Department has also expressed strong reservations regarding electoral roll costs should this scheme be pursued: the Department's comments are attached as Appendix 4.
- (b) General costs for a four-year period (i.e. two elections) are estimated at £100,000, electronic counting at £50,000 and the full cost of delivering a 'manifesto' package to each household occupied by at least one elector would be in the region of £22,000. A further variation is whether electronic counting would be used in the Electoral District elections (it is assumed that it would be employed in the Island-wide elections). The overall cost, therefore, for two elections in each four-year period with manifestos delivered by newspaper is estimated to be £172,000.
- (c) If, however, manifestos were to be delivered by post under the current scheme (i.e. individual mailings by candidates), the cost to the States for postage alone would be in excess of £85,000 for a mailing to each household occupied by at least one elector and in excess of £160,000 if manifestos were posted to each elector individually. To those figures has to be added the general costs of £100,000 and electronic counting cost of £50,000. A further variation is whether electronic counting would be used in the Electoral District elections (it is assumed that it would be employed in the Island-wide elections). The overall cost, therefore, for two elections in each four-year period with manifestos delivered by post would range from £235,000 to £310,000.

93. **Effect of modification of numbers**

Paragraph 66 applies equally to this scheme.

### **PART III - OTHER ISSUES**

#### **(i) ELECTIONS TO BE HELD BY THE SINGLE TRANSFERABLE VOTE SYSTEM**

#### **94. Overview**

- (a) Paragraphs (f) to (j) of the letter from the Electoral Reform Society reproduced as Appendix 5 sets out in detail the single transferable vote system (STV). Under the present system voters choose up to six or seven candidates without expressing an order of preference. With STV voters place the candidates in order of preference. STV reduces the chance element – particularly in respect of candidates on the margins of being elected or not being elected.
- (b) STV is capable of being used in any type of election other than in single seat elections. It will be noted that the Electoral Reform Society expresses strong reservations in respect of the use of STV in ballots in which there are large numbers of candidates. It would, however, be an innovation for Guernsey and would require good and sustained voter education to avoid confusion at the polls. The counting process is also cumbersome but this can be overcome with electronic counting.

#### **95. Candidates**

Under the present first-past-the-post system it matters not to the candidate whether he is a voter's first choice or sixth/seventh choice – securing a vote is the sole objective. However, when STV is used, not only must candidates ask electors to give them a vote, they must also persuade them to rank them as one of their early choices.

#### **96. Electors**

- (a) For electors it would be a totally new concept. No longer would voters mark their ballot papers with a cross – such papers would be invalid. Instead candidates are ranked in order of preference. They may rank as many or as few candidates as they choose. Thus in an election in which there were 90 candidates at one extreme they could rank all candidates from 1 to 90 or, at the other extreme simply rank one candidate as “1”. Both would be valid ballot papers. However, if a voter marks two candidates with the same preference then only the preferences with a higher value than the duplicated preference will be counted.
- (b) Considerable effort would have to be expended to ensure that every elector understood precisely how they were required to record their votes.

#### **97. Manifestos**

There are no implications which relate to manifestos.



98. **Hustings**

There are no implications which relate to hustings.

99. **Polling Stations**

The logistical difficulties regarding polling stations identified in earlier sections are likely to be exacerbated by STV. This would apply particularly with regard to schemes which potentially involve large numbers of candidates.

100. **Vote Count**

- (a) The first step is the calculation of the number of votes which candidates must receive to be elected. This is called the 'quota'. Ballot papers are then sorted according to voters' first choices. Candidates with at least the quota are then noted as elected. The surplus votes (the number of votes over the quota) of these candidates are then transferred to other candidates according to the voters' second choices. Any new surpluses created by this process are similarly transferred.
- (b) If not enough candidates have been elected, the candidate with the lowest number of votes is eliminated. That candidate's votes are then transferred to the (unelected) candidates marked as the next choice by the voters. The transfer of surpluses and the elimination of candidates continues until the required number of candidates has been elected.
- (c) The effect of all the above means that a manual count, whilst possible, would be so lengthy as to make it a necessity for electronic counting to be used.

101. **Estimated Cost**

The only additional cost would be with regard to voter education. Given the importance of ensuring that each and every elector is fully aware of what is required a substantial education programme would be required. It is difficult to estimate with accuracy, but given the cost of such a campaign in Scotland when STV was introduced in that country it could be in the region of £50,000.

102. **Effect of modification of numbers**

Reducing the number of seats available would affect the introduction of STV in that fewer seats make the counting process marginally simpler. However, for the reasons stated in paragraph 100, given that electronic counting would be a necessity, the real impact would be insignificant.

**(ii) CHIEF MINISTER TO BE ELECTED BY THE PUBLIC FROM THOSE ELECTED AS ISLAND-WIDE DEPUTIES**

103. **Overview**

At present the only condition which applies specifically to the candidature of persons seeking election as Chief Minister is Rule 20 (2A) of the Rules of Procedure which is set out in extenso in paragraph 67 (b).

104. **Candidates**

There are no implications which relate to candidates other than the obvious point - prospective Chief Ministers would first have to be elected as Island-wide Deputies. Such candidates would probably focus their election campaign on their intention to seek election as Chief Minister and may, for that reason, attract greater attention than the remaining candidates who might thus potentially be placed at a disadvantage.

105. **Electors**

There are no implications which relate to electors.

106. **Manifestos**

There are no implications which relate to manifestos.

107. **Hustings**

There are no implications which relate directly to hustings. However, as already stated above, Chief Minister candidates may be the focus of questions to the detriment of other candidates.

108. **Polling Stations**

There are no implications which relate to polling stations.

109. **Vote Count**

There are no implications which relate to vote counting.

110. **Estimated Cost**

There are no implications relating to the cost of running elections.

111. **Effect of modification of numbers**

Modifying the number of Members would have no effect on this suggestion.

**(iii) ELECTION FOR THE OFFICES OF CHIEF MINISTER AND MINISTERS TO BE HELD IMMEDIATELY AFTER THE JUNE 2011 ELECTION**

**112. Overview**

- (a) This issue is associated with the scheme set out in Part II section viii (paragraphs 85-93) which envisages that the Chief Minister must be an Island-wide Deputy. Should that scheme be introduced the Chief Minister would be deemed to have vacated that office and a fresh election would be held to replace him from amongst those recently elected as Island-wide Deputies.
- (b) The comments relating to timing in paragraph 85 (l) would have a consequential effect on this issue.
- (c) The comments in paragraph 85 (j) relating to the potential disruption also relates to this suggestion.

**113. Candidates**

There are no implications which relate to candidates.

**114. Electors**

There are no implications which relate to electors – i.e. the voting public. Insofar as the election of a Chief Minister is concerned the electors are the Members of the States of Deliberation. Having a fresh election for that office would require the convening of a special meeting of the States for that purpose.

**115. Manifestos**

There are no implications which relate to manifestos.

**116. Hustings**

There are no implications which relate to hustings.

**117. Polling Stations**

There are no implications which relate to polling stations.

**118. Vote Count**

There are no implications which relate to vote counting.

119. **Estimated Cost**

There would be some indirect and unquantifiable costs to the departments relating to the briefing of new ministers.

120. **Effect of modification of numbers**

Modifying the number of Members would have no effect on this suggestion.

(iv) **PARTY POLITICS**

Included as an appendix to the Committee's First Report was a note relating to political parties and this is reproduced as Appendix 6 to this Report.

**THE PROPOSED WAY FORWARD**

121. The States Assembly and Constitution Committee, in producing this present report, has been conscious of the criticism levelled at it in the States debate on the 1<sup>st</sup> July 2010, in particular, that the 2<sup>nd</sup> Report did not fully set out the merits or otherwise of the various options under consideration. The Committee believes that this present report fairly addresses all of the issues of concern raised in that debate. It is acknowledged by the Committee that pursuant to the States Resolutions of the 27<sup>th</sup> April 2006 and 28<sup>th</sup> January 2009 there is an expectation that it will present to the States propositions providing for Island-wide voting at the 2012 General Election.

122. The Committee believes that a majority of the electorate wishes to elect all the Members of the States on an Island-wide basis. This conclusion is clearly supported by the public consultation carried out last year. Paragraphs 31 to 39 set out in detail the issues which arise in relation to an Island-wide election of 45 Deputies. There exists amongst members of the Committee a range of views about the concept and methods of Island-wide voting. However, by a majority, the Committee has resolved that the method of Island-wide voting it should present to the States is that all People's Deputies be elected in one Island-wide election with effect from the General Election to be held in 2012.

**Manifestos**

123. The Committee proposes that manifestos be distributed to the electorate by means of a document containing the manifestos of all candidates which would be delivered to each household occupied by at least one elector. Candidates would be required to share the cost of printing, packaging and labelling the collective manifesto document. Candidates would, of course, be at liberty to decide not to participate in the publication, although any candidates who did so decide would still have to contain their overall expenditure within the prescribed limits.

### **Polling Stations**

124. Paragraph 36 identifies certain logistical issues relating to polling stations. The Committee acknowledges that the size of some of the current polling stations will be inadequate and that it will therefore be necessary in certain parishes to find more suitable premises. This may include church halls and other community halls. School halls might also be used, particularly if elections were held on Saturdays. In that regard the Committee notes that school premises are often used as polling stations in both the United Kingdom and France. The Committee will be discussing the matter with all the Douzaines and, where changes are necessary, appropriate premises will have to be designated as polling stations by resolution of the States.

### **Restriction on number of votes which electors may cast**

125. Paragraph 58 refers to the possibility of reducing the number of votes which each elector may have and it will be noted that the Committee believes that restricting the number of votes available to each elector would result in a greater efficiency in the electoral process. However, the Committee is of the opinion that the democratic process should not be compromised solely to achieve efficiency in the electoral process. It is of the view that every elector should have the opportunity of casting as many votes as there are seats available. Consequently no proposal is made which would limit the number of votes available to each elector.

### **Vote Count**

126. For the reasons set out in paragraph 37 the Committee considers that it will be necessary for the votes to be counted electronically. The count will take place at a central location. Tenders will be sought from UK companies which specialise in hiring out the necessary equipment.

### **Estimated Cost**

127. The cost of running an Island-wide election of 45 Deputies is estimated as follows:

General costs	£ 40,000
Electronic Counting	£ 25,000
Manifesto delivery	£ 19,000
Additional polling booths	<u>£ 7,500</u>
	<u>£ 91,500</u>

### **RECOMMENDATION**

128. The States Assembly and Constitution Committee recommends the States to resolve that –

- (1) the Reform (Guernsey) Law, 1948, as amended<sup>18</sup> be further amended to provide that with effect from the General Election to be held in 2012 there shall be 45 Deputies elected Island-wide for a four-year term and that the candidates in Island-wide elections shall be entitled but not obliged to have their manifestos distributed at the expense of the States by means of an election publication, the cost of which will be borne by the candidates;
- (2) the States Assembly and Constitution Committee be directed to report to the States with detailed proposals relating to the procedure at, and conduct of, such elections.

### LEGAL CONSULTATION

129. The Law Officers have been consulted and advised that there would not appear to be any great difficulty in settling the legislative changes which would be required in order to give effect to the recommendations in paragraph 128 (1) of this report.

Yours faithfully

M M Lowe  
Vice-Chairman

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<sup>18</sup> It may assist Members of the States to have the precise wording of Article 3(4) of The Reform (Guernsey) Law, 1948, as amended which applies to the above recommendation.

*“... any resolution of the States of Deliberation directing the preparation of legislation to repeal or vary any of the provisions of this Law which is carried by a majority of less than two-thirds of the members present and voting shall not be deemed to have been carried before the expiration of seven days from the date of the resolution:*

*Provided that where before the expiration of the aforesaid seven days an application in writing signed by not less than seven members of the States of Deliberation is made in that behalf to the Presiding Officer such resolution shall be brought back before the States of Deliberation by the Presiding Officer as soon as may be after the expiration of three months from the date of the resolution whereupon such resolution shall be declared lost unless confirmed by a simple majority.”.*

## APPENDIX 1

## AVERAGE NUMBER OF VOTES CAST BY EACH ELECTOR

	<b>2004 General Election</b>	<b>2008 General Election</b>
<b>SEVEN SEAT DISTRICTS</b>		
<b>St. Peter Port North</b>	4.87 - 69.6%	5.07 - 72.4%
<b>Vale</b>	4.93 - 70.4%	5.15 - 73.6%
<b>Castel</b>	4.73 - 67.6%	5.02 - 71.6%
<i>Average for seven seat districts</i>	<i>4.84 - 69.2%</i>	<i>5.08 - 72.6%</i>
<b>SIX SEAT DISTRICTS</b>		
<b>St. Peter Port South</b>	4.39 - 73.3%	4.56 - 75.9%
<b>St. Sampson</b>	4.51 - 75.2%	4.60 - 76.7%
<b>West</b>	4.79 - 79.8%	4.53 - 75.5%
<b>South-East</b>	4.81 - 80.2%	4.61 - 76.9%
<i>Average for six seat districts</i>	<i>4.63 - 77.1%</i>	<i>4.58 - 76.2%</i>
<b>ISLAND-WIDE CONSEILLERS ELECTIONS</b>		
<b>1994 – 12 seats</b>	8.39 - 69.9%	
<b>1997 – 6 seats</b>	4.16 - 69.3%	

## APPENDIX 2

**USE BY CANDIDATES OF  
SUBSIDISED POSTAGE SCHEME  
IN 2008 GENERAL ELECTION**

District	N° of Electors	N° of House-holds	Postings by 2* or more Candidates	Postings by Single Candidates	Average number of items in each posting
St. Peter Port South	3,370	2,090	1	9	2,056
St. Peter Port North	4,476	2,649	5	4	2,878
St. Sampson	4,848	2,678	1	8	1,209
Vale	5,651	2,997	1	6	1,282
Castel	4,984	2,599	4	2	2,380
West	4,906	2,483	3	4	2,262
South-East	5,018	2,656	2	7	2,511
All Districts	33,253	18,152	17 #	40	2,088

(# - 38 candidates)

40 individual candidates posted a total of	64,820 envelopes
38 candidates in 17 groupings* posted a total of	<u>54,224 envelopes</u>
Total number of items posted	<u>119,044</u>

The total cost of posting was	£41,072.46
Less paid by candidates	<u>£10,824.95</u>
Net cost to the States*	<u>£30,247.51</u>

\* The cost to the States only decreases when three or more candidates use the same mailing – two candidates using the same mailing is cost neutral. In the 2008 General Election only four of the mailings contained the manifestos of three candidates.



## APPENDIX 3

**POPULATION**  
**According to the Guernsey and Alderney Censuses of 2001**

**BY PARISH/ISLAND ETC.**

St. Peter Port	16,488
St. Sampson	8,592
Vale	9,573
Castel	8,975
St. Saviour	2,696
St. Pierre du Bois	2,188
Torteval	973
Forest	1,549
St. Martin	6,267
St. Andrew	2,409
Herm and Jethou	97

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59,807

**ALDERNEY**            2,294

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62,101

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**BY PRESENT ELECTORAL DISTRICTS**

St Peter Port South:			
St. Peter Port	7,746		
Herm & Jethou	<u>97</u>	7,843	
St. Peter Port North			
		8,742	
St. Sampson			
		8,592	
Vale			
		9,573	
Castel			
		8,975	
West:			
St. Saviour	2,696		
St. Pierre du Bois	2,188		
Torteval	973		
Forest	<u>1,549</u>	7,406	
South-East:			
St. Martin	6,267		
St. Andrew	<u>2,409</u>	8,676	

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59,807

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**HOME DEPARTMENT**

The Chairman  
States Assembly and Constitution Committee  
Sir Charles Frossard House  
La Charroterie  
St. Peter Port

15<sup>th</sup> October 2009

Dear Deputy Rihoy

**Island Wide Voting**

At a recent Board meeting, the Home Department discussed the consultation paper and it was agreed that the Board would make a formal approach to your Committee to present any areas of concern. These comments are limited purely to the potential impact on the Electoral Roll and do not reflect the individual views of members regarding the merit of Island-wide voting or otherwise.

The Board carefully considered Option C, believing it to be the most relevant to the Home Department and the Electoral Roll. I note, from your guidance notes on the internet, that the intention is that this option would be phased in over a period of time, with elections being held from 2012 on a district basis and then from 2014 onwards on an Island wide basis.

The Department has significant concerns over the introduction of these proposals in regard to the Electoral Roll. In order for any election to take place, an accurate and comprehensive Electoral Roll needs to be in place. Currently, although the work for the Electoral Roll is constantly ongoing, it is cyclic in nature becoming more resource intensive in the eighteen months leading up to the General Election. Adopting a General Election on a biannual basis would effectively place the Department permanently in the intensive run up to an Election and will significantly affect staff and financial resources.

This is a concern intensified by the current financial position affecting the States. As you may be aware, as part of the States Strategic Plan, the Department had put in a request for money to be allocated to the Electoral Roll for 2010, but this is not one of the eight priorities supported by Policy Council. This effectively puts the Department in an exceptionally difficult position. In order for an accurate and comprehensive Electoral Roll to be compiled, the Department requires the necessary resources, and I

would be unwilling to support any initiative which would increase the work associated with the Electoral Roll without strong assurances that the necessary resources will be in place.

Further, one of the recommendations of the post 2008 Election Report was the creation of a new Electoral Roll for each quadrennial Election. Although I am mindful that there are possible work streams around, such as the creation of a Population Office or a Citizen's Register, which may in the long run negate the need for an independent Electoral Roll, the creation of biannual Elections does cause me some significant concerns. The Department would be unable to create a new Electoral Roll each time- the employment of enumerators would make this unfeasible and I believe that requesting that the public resubmit their details so frequently would be unpopular and could cause some confusion. This would therefore mean that every other election would again be conducted using an inaccurate and out of date Electoral Roll.

I would be grateful if you could consider this submission as part of your consultation process. If you require any further information, please contact the Chief Officer, Home Department.

Yours sincerely

G H Mahy  
Minister

### REPORT OF THE ELECTORAL REFORM SOCIETY

- (a) We note the Committee's instructions to undertake a comprehensive review of all practicable methods of introducing Island-wide voting. There are possible models for all-island voting, but unfortunately they all present significant practical difficulties, because of the size of the States of Deliberation, and the lack of political parties in Guernsey.
- (b) The first model would be to hold elections under a variant of First-Past-the-Post, called the **Multiple Non Transferable Vote (MNTV)**. This system is used for a number of local elections in England and Wales. Each voter has the same number of votes as there are seats to be filled. However, this means that the system is ill-suited to elections where a large number of seats are up for election. Under present circumstances in Guernsey, it would require a voter to place an 'X' beside as many as 45 candidates, a task that would quickly become laborious. In the event that an issue arose that split voters and candidates 60-40, the candidates in the majority viewpoint would tend to be elected, and there would be no guarantee of representation of the minority view.
- (c) One refinement of this process may be a **'Limited Vote'** system, whereby voters may be given a set number of votes - say six or seven as at present – and could thereby place an 'X' next to their most favoured candidates. However the mechanics of the system mean it would have the potential to produce perverse and unrepresentative results. There would also be the danger that not all 45 seats would be filled, particularly if most votes gravitate towards a handful of popular candidates.
- (d) A second possibility would be the **Single Non Transferable Vote system (SNTV)**. This system would give each voter one vote, and they would simply be required to place an 'X' next to the candidate of their choice. The 45 candidates who gained most votes would be elected. This is perhaps the most theoretically feasible of the Island-wide models. However, it has clear limitations. Firstly, it places large restrictions on the ability of voters to exercise any real choice between candidates. Whereas at present voters have seven votes to choose seven members, under SNTV they will be limited to one vote, with little or no say over which of the other candidates they would like to see elected or not. In addition, SNTV would present a logistical problem in that voters would be choosing between as many as 82 candidates. Again, such a task could quickly become laborious, and an element of random luck could enter the equation – voters simply opting for the name at the top of a long and daunting list. There would again also be the danger of not all posts being filled if votes gravitate towards popular candidates.
- (e) A third possibility for a national constituency would normally be a **proportional list system**. These are used in countries operating a nationwide constituency

such as the Netherlands and Israel. Unfortunately, it is virtually impossible to operate in a culture where no political parties operate. In the Netherlands and Israel, the vast majority of votes are cast for a party, and seats are thus allocated in strict proportion to the number of votes gained by each party. Voters thus have a limited number of choices between the parties standing for election. In Guernsey this will be impossible to implement unless candidates form parties or electoral blocs, which would enable seats to be allocated proportionately according to the number of votes each group receives.

- (f) The fourth possibility would be to use the system that the Electoral Reform Society advocates, the **Single Transferable Vote (STV)**. STV allows voters to rank candidates in order of preference, and allows seats to be allocated proportionately based on multi-member seats. It would be theoretically possible to operate STV on a nationwide constituency, but again it would be a laborious process, requiring voters to rank as many as 82 candidates in their order of preference. This is unlikely to be popular with voters.
- (g) In short therefore, a nationwide constituency system could only feasibly operate in Guernsey if one of the following conditions were met:
- Candidates coalesced into political parties, or (at the very least) electoral blocs
  - There were fewer seats to be filled (however any more than twenty seats would make any of the above systems problematic, and a twenty-member assembly would not seem appropriate).
- (h) The Electoral Reform Society therefore recommends that the Committee consider alternative models based on the present electoral districts. The system that we believe would best represent the views of Guernsey voters is the Single Transferable Vote, based on the current seven electoral districts. Voters would be asked to elect between six and seven members for each district by ranking candidates in order of preference. Those candidates who reached the following ‘quota’ of required votes would be elected:
- $$(\text{Number of votes cast}) \div (\text{Number of seats in the electoral district} + 1) + 1$$
- (i) If any candidate reaches the required quota on the basis of first preference votes (those votes ranking the candidate first), the candidate is declared elected and its surplus votes (the number of votes over and above the quota) are redistributed in proportion to the second preferences indicated by voters. Once the surpluses of all elected candidates are redistributed, the votes of the candidate with fewest votes are also redistributed according to the next preference. The process continues until all seats have been filled by candidates reaching the quota. If one seat remains to be filled and there are two candidates remaining short of the quota, the remaining candidate with the most seats takes the final seat.

- (j) The system operates successfully in Northern Ireland, the Republic of Ireland, Malta, Australia, and, from May 2007, local elections in Scotland. The Electoral Reform Society advocates it because it gives maximum power to voters, and is more representative of their views than First-Past-the-Post, which can tend to produce skewed results in favour of the 'largest minority'. If STV was based on the current electoral districts, the problems mentioned above would be alleviated, since voters would only be required to choose between 10-12 candidates each – a far more feasible prospect. STV elections to the Northern Ireland Assembly for instance elect six members per constituency, and voters choose between an average of fifteen candidates. However, STV could also easily work based on smaller electoral districts, electing between four and six members per constituency as in the Republic of Ireland. However the Committee should note that the more seats per district, the more representative the result will be. It is purely a matter of balance between proportionality and practicality – any more than seven seats to fill and the number of candidates to choose from would once again become a laborious process.

STUART STONER  
Parliamentary Officer

31<sup>st</sup> January 2007

**APPENDIX 6****POLITICAL PARTIES**

- i. This brief note on political parties is included because in several places in the principal report it is stated that the absence of political parties has the effect of reducing the choice of possible electoral systems for Guernsey. The Committee is certainly not suggesting that political parties be introduced simply to facilitate any particular electoral system. It is not the function of any parliament to engineer the foundation of a party system.
- ii. Political parties – that is groups of people who hold similar political aims and opinions who have organized, usually to contest elections so that they might form a government – have never been part of the political scene in Guernsey. From time-to-time parties have emerged but their existence has been short-lived and only very seldom have party representatives been successful in contesting seats in the States of Deliberation.
- iii. In jurisdictions which have no political parties government is, of necessity, consensual and Guernsey is no exception in this regard. Indeed this has long been held out as one of the reasons why the Island has had a sound and stable government for many years. Each and every Member of the States, whether or not a minister, is effectively a member of the government. No proposition can succeed without the consent of a majority of the Members which means that no department or committee of the States can be certain of gaining States' approval in respect of any particular proposition.
- iv. In a party system, however, the government is formed by the party securing most votes in a general election (or, if no party has secured a majority of the seats, by an alliance of parties). Members of the party are generally required to vote in accordance with party policy which will have been set out in the party's election manifesto published prior to the election. It can be argued that where there is no majority government the alliance of parties which form the government governs by consensus, but it is not fully consensual as the views of the minority who are not in government need not necessarily be taken into consideration. An alliance of parties is often necessary in jurisdictions in which a proportional representation voting system is used as it is seldom that one party alone secures a majority of the seats available.
- v. The submission from the Electoral Reform Society contains several references to the absence of a party system in Guernsey and the constraints which that places on the range of electoral systems which might be adopted. Paragraph 51<sup>19</sup> of the report notes that several of the jurisdictions listed do have party systems. One such jurisdiction is Gibraltar.

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<sup>19</sup> of the 1<sup>st</sup> Report (Billet d'État I of 2009)

- vi. In Gibraltar there are 17 seats and each elector has a maximum of 10 votes. Each political party tends to nominate ten candidates in the hope of securing 'block votes'. Independents may stand but usually find it difficult to secure sufficient votes to be elected. In the October 2007 general election the Gibraltar Social Democrats secured 10 seats, the Gibraltar Socialist Labour Party four seats and the Gibraltar Liberal Party three seats. The Progressive Democratic Party and two independents failed to obtain any seats.
- vii. In most jurisdictions which have political parties provision is made for candidates to state on the ballot paper, in addition to their names, the title of their political party or else they are permitted to display the emblem of the political party.
- viii. The presence of political parties allows more flexibility in the choice of the method of election of the members of parliament and also results in greater certainty in the delivery of policy but this is balanced in non-political party jurisdictions with the freedom of each member to vote according to conscience rather than being obliged to hold to party policy.



**MINORITY REPORT  
SUBMITTED BY DEPUTY I F RIHOY**

The Presiding Officer  
The States of Guernsey  
Royal Court House  
St. Peter Port

17<sup>th</sup> December 2010

Dear Sir

1. I rather regret that I find myself in the unenviable position of having to present a minority report to a report of the States Assembly and Constitution Committee, of which I am Chairman. I do so after considerable thought and only because I feel very strongly about the area of policy addressed by the report: island-wide voting.
2. Since before my election to the States of Deliberation in 1985, I have been of the opinion that Members of the States should be elected on an island-wide basis. Indeed, it was following a successful amendment proposed by me that on the 27<sup>th</sup> April, 2006, the Assembly resolved: *“To direct the [then] House Committee to undertake a comprehensive review of all practicable methods of introducing Island-wide voting for the office of People’s Deputy, and to report back to the States in sufficient time to enable the introduction of such a system with effect from the General Election to be held in 2012.”*.
3. On the 28<sup>th</sup> January, 2009, the States of Deliberation debated the States Assembly and Constitution Committee’s first report on island-wide voting – which had been submitted pursuant to Rule 12 (4) – and resolved: *“To note the Report and to direct the States Assembly and Constitution Committee to report further to the States with detailed proposals regarding the election and constitution of the States of Deliberation which will take effect from the General Election to be held in 2012.”*. In fulfilling this States Resolution, the Committee presented proposals to the June, 2010 meeting of the States of Deliberation, but on 1<sup>st</sup> July, 2010 the Assembly approved a successful sursis motiv e, the terms of which are fulfilled by this latest detailed Report submitted by the Committee and to which this minority report is attached. Although I take a different view to the majority of the Committee in respect of the propositions to be put before the Assembly, I wish to make it clear that the Committee is of one mind in believing that its Report is as thorough and as comprehensive as possible.
4. During the debate of June, 2010 it emerged that many Members of the States continued to favour some form of island-wide voting for the office of People’s

Deputy. However, I sensed then, and continue to judge now, that a majority of States Members are not prepared to support the introduction of island-wide voting for all 45 People's Deputies, which is the model of Island-wide voting favoured by three of the five members of my Committee and which accordingly the Committee is recommending to the States. My view is that a greater number of States Members, and indeed a considerable proportion of our community, may be more disposed towards introducing an element of island-wide voting, i.e. having at least some People's Deputies elected on an island-wide franchise. This would represent a form of compromise between those who wish for island-wide voting for all people's deputies and those who do not favour fully abolishing the present district-based electoral system.

5. Therefore, in this minority report I wish to propose an electoral system whereby around one-quarter of People's Deputies would be elected island-wide and about three-quarters would continue to be elected within districts. Aside from the matter of seeking a pragmatic proposal to put to the States, there is one overriding reason for my favouring an alternative scheme to that recommended by the majority of my Committee: I consider that it would be impractical, indeed possibly even unworkable, to organise an Island-wide election for all 45 People's Deputies in a little more than a year's time and in a political system which features neither political parties nor cabinet government.
6. The basics of the alternative scheme which I am proposing are set out in paragraphs 7 to 13 below. A more detailed analysis of the scheme is actually included in part ii, section vii of the Committee's Report to which this minority report is attached, although as with any form of Island-wide voting which the States may choose to introduce the precise mechanics will be the subject of further consideration as part of a pre-2012 General Election Report which the Committee is obliged to lay before the Assembly.
7. I envisage two elections being held for the following offices:
  - **10 Island Deputies; and**
  - **35 District Deputies.**
8. The 35 district-based seats would be distributed equally among the existing electoral districts, i.e. five district deputies for each of St Peter Port South, St Peter Port North, St Sampson, Vale, Castel, South-East and the West.
9. The elections for 10 island deputies and 35 District Deputies would not take place on the same day. The election for District Deputies would take place approximately one month after the election for Island Deputies. It would be possible for a candidate who stood unsuccessfully for the office of Island-wide Deputy to stand a month or so later for the office of District Deputy. Introducing restrictions to force candidates to choose to stand for one or other office would seem to me unacceptably and unnecessarily undemocratic.

10. Given that the ratio of district seats to island-wide seats would be 3.5:1, I have assumed that the candidates would likely be in a similar ratio, in which case it is possible that there might be 22 candidates in the island-wide election (for 10 seats) and 77 in the seven district elections (for a total of 35 seats). As an indicative guide, in 1994 26 candidates contested the 12 seats for the office of Conseiller, which was, of course, an island-wide election.
11. Electors would be able to cast their votes at any polling station situated in the electoral district in which they reside. The first election would be for **Island Deputies and the second for District Deputies**.
12. It is quite plain that under the proposals being put by the Committee, the traditional 'hustings' would cease to exist. 90 or 100 candidates cannot possibly participate in one 'hustings' on one platform at the same time. However, the alternative scheme which I am proposing allows traditional 'hustings' to continue, for the office of District Deputy, and in a slightly modified form (i.e. over two meetings rather than one) for the office of Island Deputy. I consider this a very significant advantage: 'hustings' are a valuable way of candidates engaging with the electorate, not least of all because they test the credentials of candidates in answering questions against each other and under a degree of pressure. One to One surgeries where the electorate can meet and discuss issues on a one to one basis could still be used during both elections.
13. Seating arrangements will be at the discretion of the President/Presiding Officer however I would recommend that all Island Deputies will sit on the top bench regardless of what position they might hold after the election of Department Ministers and Chairmen as was the position in 1991, when Presidents of major committees did not always sit on the top bench.
14. In respect of the eligibility of candidates for both offices, I envisage no need for restrictions further to those which apply already for the office of People's Deputy.
15. The scheme which I am proposing reflects my judgement that the vast majority of Guernsey people who take an interest in political matters strongly favour some form of island-wide voting, and speaks to my view that introducing an element of island-wide franchise would strengthen the legitimacy of the island's government, but it also overcomes all of the logistical problems and weaknesses which are inevitable, and essentially cannot be overcome, in a scheme in which all 45 People's Deputies are elected island-wide and at the same time.
16. I do not believe that electronic counting is a necessity with regard to this particular scheme and I have not, therefore, made any provision in that regard in the figures contained in the following paragraph.

17. I have sought advice from the Registrar-General of Electors regarding the cost of this scheme. I am informed that the estimated cost is as follows:

<u>10 Island Deputies</u>		
General costs	£35,000	
Manifesto distribution	<u>£11,000</u>	£ 46,000
<u>35 District Deputies</u>		
General costs	£41,000	
Manifesto postage	<u>£24,000</u>	£ <u>65,000</u>
		 <u>£111,000</u>

18. It is my intention to propose an amendment to the propositions set out in the Billet d'État. In accordance with this minority report, my amendment will propose that with effect from 2012 there should be 10 Island-wide Deputies elected for a four-year term and 35 District Deputies elected for a four-year term.
19. As the figure of £111,000 falls within the budgetary provision for elections, i.e. £120,000, the amendment which I shall be proposing will not be subject to the provisions of Rule 15 (2) of the Rules of Procedure.

Yours faithfully

I F Rihoy

The States are asked:-

VII.- Whether, after consideration of the Report dated 17<sup>th</sup> December, 2010, of the States Assembly and Constitution Committee, they are of the opinion:-

1. That the Reform (Guernsey) Law, 1948, as amended be further amended to provide that with effect from the General Election to be held in 2012 there shall be 45 Deputies elected Island-wide for a four-year term and that the candidates in Island-wide elections shall be entitled but not obliged to have their manifestos distributed at the expense of the States by means of an election publication, the cost of which will be borne by the candidates.
2. To direct the States Assembly and Constitution Committee to report to the States with detailed proposals relating to the procedure at, and conduct of, such elections.

**STATUTORY INSTRUMENTS LAID BEFORE THE STATES**

**THE MISUSE OF DRUGS (MODIFICATION NO 4) ORDER, 2010**

In pursuance of Section 30 of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974, the Misuse of Drugs (Modification No 4) Order, 2010 made by the Health and Social Services Department on 9<sup>th</sup> November, 2010, is laid before the States.

EXPLANATORY NOTE

This Order amends the Misuses of Drugs (Bailiwick of Guernsey) Ordinance, 1997.

It extends the record-keeping obligations of midwives to additional categories of prescribers, namely nurse independent prescribers, pharmacist independent prescribers, supplementary independent prescribers and authorised paramedics. These persons are authorised to have controlled drugs in their possession or to administer them, and thus, should be required to keep appropriate records in the same way that midwives are.

This Order also extends the exemption from the ban on possession to *all* Schedule 4 drugs that are contained in medicinal products, and not just the drugs specified in Part II of that schedule. As a result, limited exemptions relating to the possession of Schedule 4 drugs become superfluous and have been deleted. In addition, this Order repeals the exemption relating to importation and exportation of drugs in Part II of Schedule 4, as this will be effected by way of an open licence issued by the Health and Social Services Department.

Consequently, the drugs in Part I and Part II of Schedule 4 will now be equally treated under the Ordinance, but for ease of future reference Schedule 4 will continue being divided into two Parts (Part II being anabolic steroids and growth hormones).

This Order came into operation on 1<sup>st</sup> January 2011.

**THE WASTE DISPOSAL CHARGES (NO 3) REGULATIONS 2010**

In pursuance of Section 72 (3) of the Environmental Pollution (Guernsey) Law, 2004, the Waste Disposal Charges (No 3) Regulations, 2010, made by the Public services Department, in its capacity as Waste Disposal Authority, on 26<sup>th</sup> November, 2010, are laid before the States.

EXPLANATORY NOTE

These Regulations, made by the Public Services Department in its capacity as Waste Disposal Authority under the Environmental Pollution (Guernsey) Law, 2004, prescribe the charges payable in order to dispose of waste at the Authority's waste disposal sites as from 1<sup>st</sup> January 2011.

**THE HARBOUR DUES AND FACILITIES CHARGES REGULATIONS, 2010**

In pursuance of Section 5 (2) of the Fees, Charges and Penalties (Guernsey) Law 2007, the Harbour Dues and Facilities Charges Regulations, 2010, made by the Public Services Department on 26<sup>th</sup> November, 2010, are laid before the States.

## EXPLANATORY NOTE

These Regulations prescribe the harbour dues payable under section 2 of the Harbour Dues (Saint Peter Port and Saint Sampson) Law, 1957, and the charges payable for the use of harbour facilities under section 33 (1) of the Harbours Ordinance, 1988. These Regulations increase the existing harbour dues and facilities charges by approximately 3.5 per cent. Under the terms of the Fees, Charges and Penalties (Guernsey) Law, 2007, these dues and charges may now be prescribed by regulations of the Public Services Department.

These Regulations came into operation on 1<sup>st</sup> January 2011.

Legislative background

Harbour dues payable under section 2 of the 1957 Law were originally set out in a Schedule to that Law. Section 1 of the Harbours, Moorings and Pilotage (Fees and Dues) Law, 1986 amended section 2 of the 1957 Law to provide that the dues would be payable at such rates as the States may, from time to time, by Resolution determine. In 2001, the 1957 Law was further amended by section 1 of the Harbour Dues, Harbour Charges and Mooring Charges (Guernsey) (Amendment) Law, 2001 to provide that such a States resolution could authorise the Board of the Public Services Department to amend the amount of those dues in respect of any specified twelve month period or periods by an amount not exceeding the change in the Guernsey Retail Price Index during such earlier twelve month period or periods as may be so specified.

Charges for the use of harbour facilities under section 33 of the Harbours Ordinance, 1988 were originally payable at such rates as the States may from time to time determine by resolution. Section 33 was amended by section 1 of the Harbours (Amendment) Ordinance, 2001 to provide that such a States resolution could authorise the Board of the Public Services department to amend the amount of those charges in respect of any specified twelve month period or periods by an amount not exceeding the change in the Guernsey Retail Price Index during such earlier twelve month period or periods as may be so specified.

**THE MOORING CHARGES (NO.2) REGULATIONS, 2010**

In pursuance of Section 5 (2) of the Fees, Charges and Penalties (Guernsey) Law 2007, the Mooring Charges (No. 2) Regulations, 2010, made by the Public Services Department on 26<sup>th</sup> November, 2010, are laid before the States.

## EXPLANATORY NOTE

These Regulations prescribe the mooring charges payable under section 2 of the Vessels and Speedboats (Compulsory Third-Party Insurance, Mooring Charges and Removal of Boats) (Guernsey) Law, 1972 (the "1972 Law"). These Regulations increase the existing mooring charges by approximately 3 per cent. Under the terms of the Fees, Charges and Penalties (Guernsey) Law, 2007, these charges may now be prescribed by regulations of the Public Services Department

These Regulations came into operation on 1<sup>st</sup> January 2011.

Legislative background

Mooring charges payable under section 2 of the 1972 Law were originally made by way of Ordinance. Section 3 of the Harbours, Moorings and Pilotage (Fees and Dues) Law, 1986 amended section 2 of the 1972 Law to provide that the charges would be payable at such rates as the States may, from time to time, by Resolution prescribe. In 2001, the 1972 Law was further amended by section 2 of the Harbour Dues, Harbour Charges and Mooring Charges (Guernsey) (Amendment) Law, 2001 to provide that such a States Resolution could authorise the Board of the Public Services Department to amend the amount of those dues in respect of any specified twelve month period or periods by an amount not exceeding the change in the Guernsey Retail Price Index during such earlier twelve month period or periods as may be so specified.

**THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO. 6) REGULATIONS, 2010**

In pursuance of Section 35 of the Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 6) Regulations, 2010, made by the Social Security Department on 1<sup>st</sup> December, 2010, are laid before the States.

EXPLANATORY NOTE

These Regulations add to the limited list of drugs and medicines available as pharmaceutical benefit which may be ordered to be supplied by medical prescriptions issued by medical practitioners. These Regulations came into operation on 1<sup>st</sup> December 2010.

**THE TRADE MARKS (FEES) REGULATIONS, 2010**

In pursuance of Section 101 (3) of the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006, as amended, the Trade Marks (Fees) Regulations, 2010, made by the Commerce and Employment Department on 1<sup>st</sup> December, 2010, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the fees payable to the Office of the Registrar of Intellectual Property for applications and other matters in respect of the performance of the Registrar's functions under the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006. These Regulations came into operation on 1<sup>st</sup> January 2011.

**THE PROTECTED CELL COMPANIES AND INCORPORATED CELL COMPANIES (FEES FOR INSURERS) REGULATIONS, 2010**

In pursuance of Section 25 (3) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended, Section 86 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 and Section 537 of the Companies (Guernsey) Law, 2008, the Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2010, made by the Guernsey Financial Services Commission on 3<sup>rd</sup> December, 2010, are laid before the States.



## EXPLANATORY NOTE

These Regulations prescribe the fees payable to the Guernsey Financial Services Commission by any company which is a protected cell company or an incorporated cell company, and by an incorporated cell, and which applies to be licensed to conduct insurance business under the Insurance Business (Bailiwick of Guernsey) Law, 2002, and the fees payable periodically thereafter by such a company or cell when licensed and also for the creation of a new cell or the reactivation of a dormant cell by a licensed protected cell company. Furthermore, the Regulations prescribe the fee payable to the Guernsey Financial Services Commission by any company for consent for the conversion of a licensed company into a protected cell company or an incorporated cell company, the conversion of an existing licensed protected cell company into an incorporated cell company, or for the conversion of a licensed protected cell company or incorporated cell company into a non-cellular company. These Regulations came into operation on 1<sup>st</sup> January 2011.

**THE REGISTRATION OF NON-REGULATED FINANCIAL SERVICES  
BUSINESSES (BAILIWICK OF GUERNSEY) (FEES) REGULATIONS, 2010**

In pursuance of Section 25 (3) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended, and Section 31 (c) of the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008, the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) (Fees) Regulations, 2010, made by the Guernsey Financial Services Commission on 3<sup>rd</sup> December, 2010, are laid before the States.

## EXPLANATORY NOTE

These Regulations make provision for the payment of an application fee and an annual fee under the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008. These Regulations came into operation on 1<sup>st</sup> January 2011.

**THE AMALGAMATION AND MIGRATION OF COMPANIES  
(FEES PAYABLE TO THE GUERNSEY FINANCIAL SERVICES COMMISSION)  
REGULATIONS, 2010**

In pursuance of Section 25 (3) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended, and Section 537 of the Companies (Guernsey) Law, 2008, the Amalgamation and Migration of Companies (Fees payable to the Guernsey Financial Services Commission) Regulations, 2010, made by the Guernsey Financial Services Commission on 3<sup>rd</sup> December, 2010, are laid before the States.

## EXPLANATORY NOTE

These Regulations set out the fees payable to the Guernsey Financial Services Commission which must accompany an application for its consent for the amalgamation of two or more bodies corporate pursuant to the provisions of Part VI of the Companies (Guernsey) Law, 2008 and for the removal of a supervised company from the Register of Companies for the purposes of becoming registered as a company under the law of a district, territory or place outside Guernsey in accordance with the provisions of Part VII of that Law.

These Regulations also repeal the Amalgamation of Companies (Fees) Regulations, 2000 and Regulation 2(a) and (c) of the Migration of Companies (Fees) Regulations, 1997, which were made under legislation repealed by the Companies (Guernsey) Law, 2008 but which were continued in force under the transitional provisions set out in Schedule 4 to that Law.

There continues to be no fee payable to the Guernsey Financial Services Commission when a non-Guernsey company migrates "inwardly" to become registered a Guernsey company.

These Regulations came into operation on 1<sup>st</sup> January 2011.

### **THE FINANCIAL SERVICES COMMISSION (FEES) REGULATIONS, 2010**

In pursuance of Section 25 (3) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended, the Financial Services Commission (Fees) Regulations, 2010, made by the Guernsey Financial Services Commission on 3<sup>rd</sup> December, 2010, are laid before the States.

#### EXPLANATORY NOTE

These Regulations prescribe for the purposes of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, the Banking Supervision (Bailiwick of Guernsey) Law, 1994, the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000, the Insurance Business (Bailiwick of Guernsey) Law, 2002 and the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 the fees payable in respect of the licensing of controlled investment business, a designated territory investment business notification, a non-Guernsey open-ended collective investment scheme notification, the licensing of a bank, the licensing of fiduciaries, the licensing of an insurer, the licensing of an insurance manager, the licensing of an insurance intermediary, and the fees payable annually thereafter. These Regulations came into operation on 1<sup>st</sup> January 2011.

### **THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (LEGAL PROFESSIONALS, ACCOUNTANTS AND ESTATE AGENTS) (BAILIWICK OF GUERNSEY) (AMENDMENT) (NO. 3) REGULATIONS, 2010**

In pursuance of Section 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) (Amendment) (No. 3) Regulations, 2010, made by the Policy Council on 6<sup>th</sup> December, 2010, are laid before the States.

#### EXPLANATORY NOTE

These Regulations are made under the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 and amend the Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) Regulations, 2008 ("the 2008 Regulations").

Regulation 1 inserts a new regulation 1A (application of regulations) into the 2008 Regulations to clarify that the provisions of the 2008 Regulations do not apply to certain small prescribed businesses.

Regulations 2 and 3 amend regulations 16 and 17 of the 2008 Regulations in order to make revised provision relating to the registration fee and annual registration fee payable by prescribed businesses.

Regulation 4 corrects an erroneous reference in regulation 29 of the 2008 Regulations.

Regulation 5 inserts an additional definition in regulation 30 of the 2008 Regulations.

Regulations 6, 7 and 8 are the interpretation, citation and commencement clauses.

These Regulations came into operation on 1<sup>st</sup> January 2011.

### **THE PUBLIC RECORDS (FEES FOR REGISTRATION AND CERTIFIED COPIES OF DOCUMENTS) REGULATIONS, 2010**

In pursuance of Section 5 (2) of the Fees, Charges and Penalties (Guernsey) Law, 2007, the Public Records (Fees for Registration and Certified Copies of Documents) Regulations, 2010, made by the Treasury and Resources Department on 7<sup>th</sup> December, 2011, are laid before the States.

#### EXPLANATORY NOTE

These Regulations increase the fees payable on registration at the Greffe of conveyances and bonds, etc, and for the provision of copies of such documents. These Regulations came into operation on 1<sup>st</sup> January 2011.

### **THE MARRIAGE FEES (GUERNSEY) REGULATIONS, 2010**

In pursuance of Section 5 (2) of the Fees, Charges and Penalties (Guernsey) Law, 2007, the Marriage Fees (Guernsey) Regulations, 2010, made by the Treasury and Resources Department on 7<sup>th</sup> December 2010 are laid before the States.

#### EXPLANATORY NOTE

These Regulations increase the fees payable to the Registrar-General of Marriages for taking notice of marriage, solemnisation of marriages etc. These Regulations came into operation on 1<sup>st</sup> January 2011.

### **THE BIRTHS, DEATHS AND MARRIAGE CERTIFICATES (FEES) REGULATIONS, 2010**

In pursuance of Section 5 (2) of the Fees, Charges and Penalties (Guernsey) Law, 2007, the Births, Deaths and Marriage Certificates (Fees) Regulations, 2010, made by the Treasury and Resources Department on 7<sup>th</sup> December 2010 are laid before the States.

## EXPLANATORY NOTE

These Regulations increase the fees payable for the issue of birth, death and marriage certificates. These Regulations came into operation on 1<sup>st</sup> January 2011.

**THE TAXATION OF REAL PROPERTY (GUERNSEY AND ALDERNEY)  
(AMENDMENT) REGULATIONS, 2010**

In pursuance of Section 49 (4) of the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007, the Taxation of Real Property (Guernsey and Alderney) (Amendment) Regulations, 2010, made by the Treasury and Resources Department on 7<sup>th</sup> December, 2010, are laid before the States.

## EXPLANATORY NOTE

These Regulations amend Schedule 1 to the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007 by amending for the purpose of clarification the definitions of “flat”, “warehousing” and “whole unit”. These Regulations came into operation on 1<sup>st</sup> January 2011.

**THE WATER CHARGES (AMENDMENT) REGULATIONS, 2010**

In pursuance of Article 17 (5) of the Law entitled “Loi ayant rapport à la Fourniture d’Eau par les États de cette Île aux Habitants de la dite Île” registered on 7<sup>th</sup> May, 1927, as amended, and “The Fees, Charges and Penalties (Guernsey) Law, 2007” registered on 19<sup>th</sup> May, 2008, the Water Charges (Amendment) Regulations, 2010, made by the Public Services Department on 10<sup>th</sup> December, 2010, are laid before the States.

## EXPLANATORY NOTE

These Regulations prescribe the charges which will be made for the supply of water for 2011. These Regulations came into operation on 1<sup>st</sup> January 2011.

**THE STATES HOUSING (RENT AND REBATE SCHEME) (GUERNSEY)  
(AMENDMENT) REGULATIONS, 2010**

In pursuance of section 5 (3) of the States Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004, the States Housing (Rent and Rebate Scheme) (Guernsey) (Amendment) Regulations, 2010, made by the Housing Department on 14<sup>th</sup> December, 2010, are laid before the States

## EXPLANATORY NOTE

These Regulations amend the States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005 by making changes to the States Rental Formula and to the charges applied to non-dependent persons residing in the household of a statutory tenant, and to the allowances given to dependent children residing in the household of a statutory tenant. These Regulations came into operation on 1<sup>st</sup> January 2011.

**THE COMPANIES (STANDARD ARTICLES OF INCORPORATION)  
REGULATIONS, 2010**

In pursuance of Section 537 of the Companies (Guernsey) Law, 2008, the Companies (Standard Articles of Incorporation) Regulations, 2010, made by the Commerce and Employment Department on 14<sup>th</sup> December, 2010, are laid before the States.

EXPLANATORY NOTE

These regulations prescribe for the purposes of the Companies (Guernsey) Law, 2008, standard articles of incorporation for non-cellular companies limited by shares with unrestricted objects that are not publicly traded and that are incorporated in Guernsey on or after the coming into operation of the regulations. The regulations repeal the earlier Companies (Standard Articles of Incorporation) Regulations, 2008.

The standard articles prescribed by these regulations will apply to all companies incorporated on or after 1 January 2011, save to the extent that they are varied or disapplied in accordance with the requirements of section 16(3) of the Companies (Guernsey) Law, 2008, and without prejudice to the power of such a company to alter its Articles by special resolution under section 42 of the Law.

Companies incorporated using the standard articles that were prescribed under the Companies (Standard Articles of Incorporation) Regulations, 2008 are not affected by the new regulations and their existing articles remain effective.

These Regulations came into operation on 1<sup>st</sup> January 2011.

*APPENDIX I***STATES ASSEMBLY AND CONSTITUTION COMMITTEE**

RECORD OF MEMBERS' ATTENDANCE AT MEETINGS OF THE STATES OF DELIBERATION, THE POLICY COUNCIL, DEPARTMENTS AND COMMITTEES

The Presiding Officer  
The States of Guernsey  
Royal Court House  
St Peter Port

13<sup>th</sup> December 2010

Dear Sir

On the 29<sup>th</sup> October, 2010 the States resolved, inter alia:

1. ...
2. *That departments and committees shall maintain a record of their States Members' attendance at, and absence from meetings and that the reason for absence shall also be recorded.*
3. *That the records referred to in 2 above, together with a record of States Members' attendance at meetings of the States of Deliberation, shall be published from time to time as an appendix to a Billet d'État.*

I would be grateful if you would arrange for this report, in respect of statistics provided by Her Majesty's Greffier, Departments and Committees for the six months ended 31<sup>st</sup> October 2010, to be published as an appendix to a Billet d'État.

Yours faithfully

I F Rihoy  
Chairman

**PART I - REPORT BY DEPARTMENT/COMMITTEE**

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other

<b>POLICY COUNCIL</b>							
L. S. Trott	12	10	2				
B. M. Flouquet	12	8	1		2	1	
A. H. Adam	12	10	1			1	
M. H. Dorey	12	12					
D. B. Jones	12	10		1		1	
G. H. Mahy	12	7		3	1	1	
C. S. McNulty Bauer	12	10			1	1	
M. G. O'Hara	12	10			1		1 flight delay
C. N. K. Parkinson	12	10	1			1	
P. R. Sirett	12	10				2	
C. A. Steere	12	9	1			2	
<b>Alternate Members:</b>							
M. G. G. Garrett	1	1					
G. Guille	2	2					
J. Honeybill	1	1					
M. S. Lainé	2	2					
A. R. Le Lièvre	1	1					
S. J. Ogier	1	1					
F. W. Quin	6	6					
A. Spruce	2	2					
J. M. Tasker	2	2					

<b>COMMERCE AND EMPLOYMENT DEPARTMENT</b>							
C. S. McNulty Bauer	14	13	1				
R. W. Sillars	14	13				1	
P. L. Gillson	14	12	1		1		
M. S. Lainé	14	10	3			1	
M. J. Storey	14	12	1			1	

<b>CULTURE AND LEISURE DEPARTMENT</b>							
M. G. O'Hara	7	7					
M. G. G. Garrett	7	5	1			1	
G. P. Dudley-Owen	7	5	1			1	
J. A. B. Gollop	7	7					
F. W. Quin	7	6	1				

<b>EDUCATION DEPARTMENT</b>							
C. A. Steere	10	8	1			1	
A. Spruce	10	8	1			1	
M. J. Fallaize	10	8	1			1	
M. W. Collins	10	10					
D. de G. De Lisle	10	10					

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/business/holiday	Other

ENVIRONMENT DEPARTMENT							
P. R. Sirett	13	11				2	
J. M. Tasker	13	11	1			1	
J. Honeybill	13	9	2			2	
J. M. Le Sauvage	13	13					
B. J. E. Paint	13	13					

HEALTH AND SOCIAL SERVICES DEPARTMENT							
A. H. Adam	11	11					
B. L. Brehaut	11	9	1			1	
A. R. Le Lièvre	11	9			1	1	
M. M. Lowe	11	9				2	
R. G. Willmott	11	7	2			1	1 fog bound

HOME DEPARTMENT							
G. H. Mahy	10	7	1	2			
F. W. Quin	10	10					
S. J. Maindonald	10	8		1		1	
J. M. Tasker	10	8	1	1			
M. S. Lainé	10	8			2		

HOUSING DEPARTMENT							
D. B. Jones	12	10		2			
G. Guille	12	10		2			
T. J. Stephens	12	11	1				
G. P. Dudley-Owen	12	10				2	
S. J. McManus	12	12					

PUBLIC SERVICES DEPARTMENT							
B. M. Flouquet	11	9			1	1	
S. J. Ogier	11	8	3				
T. M. Le Pelley	11	11					
A. Spruce	11	10				1	
W. Walden	11	2		5	1	1	2 fog bound

SOCIAL SECURITY DEPARTMENT							
M. H. Dorey	17	12					5 declared interest
A. H. Brouard	17	16	1				
S. J. Ogier	17	14	3				
A. R. Le Lièvre	17	15			2		
M. W. Collins	17	14			2	1	

TREASURY AND RESOURCES DEPARTMENT							
C. N. K. Parkinson	26	21			1	4	
A. H. Langlois	26	22				4	
S. L. Langlois	26	26					
R. Domaille	26	22		1		3	
J. Honeybill	26	21				5	



NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/business/holiday	Other

LEGISLATION SELECT COMMITTEE							
J. A. B. Gollop	7	7					
R. R. Matthews	7	6			1		
L. R. Gallienne	7	7					
T. J. Stephens	7	6			1		
J. Kuttelwascher	7	7					
S. J. Maindonald	7	7					

PUBLIC ACCOUNTS COMMITTEE							
L. R. Gallienne	13	13					
M. G. G. Garrett	13	10	1		1	1	
B. J. E. Paint	13	13					
T. J. Stephens	13	13					
M. J. Storey	13	12				1	

PUBLIC SECTOR REMUNERATION COMMITTEE							
A. H. Langlois	7	7					
R. W. Sillars	7	6		1			
S. J. Ogier	7	5				1	1 x not known
B. J. E. Paint	7	6				1	
T. J. Stephens	7	4	2	1			

SCRUTINY COMMITTEE							
B. L. Brehaut	10	9				1	
D. de G. De Lisle	10	8			1	1	
M. J. Fallaize	10	8	1	1			
M. G. G. Garrett	10	9	1				
J. A. B. Gollop	10	9			1		
M. P. J. Hadley	10	10					
J. Kuttelwascher	10	10					
S. J. McManus	10	10					
R. R. Matthews	10	9				1	

STATES ASSEMBLY AND CONSTITUTION COMMITTEE							
I. F. Rihoy	11	9				2	
M. M. Lowe	11	10	1				
M. J. Fallaize	11	10				1	
S. L. Langlois	11	11					
T. M. Le Pelley	11	10	1				

INHERITANCE LAW REVIEW COMMITTEE							
M. M. Lowe	0						
P. R. Sirett	0						
R. W. Sillars	0						

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE							
T. M. Le Pelley	1	1					
J. A. B. Gollop	1		1				
B. M. Flouquet	1	1					
M. M. Lowe	1	1					
S. L. Langlois	1	1					

**PART II - REPORT BY MEMBER/ELECTORAL DISTRICT****Summary of Attendances at Meetings of the Policy Council, Departments and Committees**

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/business/holiday	Other
<b>ST PETER PORT SOUTH</b>							
B. L. Brehaut	21	18	1			2	
C. S. McNulty Bauer	26	23	1		1	1	
J. M. Tasker	25	21	2	1		1	
R. Domaille	26	22		1		3	
A. H. Langlois	33	29				4	
J. Kuttelwascher	17	17					
<b>ST PETER PORT NORTH</b>							
J. A. B. Gollop	25	23	1		1		
R. R. Matthews	17	15			1	1	
C. A. Steere	22	17	2			3	
M. J. Storey	27	24	1			2	
J. Honeybill	40	31	2			7	
L. R. Gallienne	20	20					
M. W. Collins	27	24			2	1	
<b>ST. SAMPSON</b>							
P. L. Gillson	14	12	1		1		
S. J. Maindonald	10	8		1		1	
S. J. Ogier	36	28	6			1	1 not known
I. F. Rihoy	11	9				2	
L. S. Trott	12	10	2				
T. J. Stephens	39	34	3	1	1		
<b>VALE</b>							
M. J. Fallaize	31	26	2	1		2	
G. H. Mahy	22	14	1	5	1	1	
A. Spruce	23	20	1			2	
M. M. Lowe	23	20	1			2	
G. Guille	14	12		2			
D. B. Jones	24	20		3		1	
A. R. Le Lièvre	29	25			3	1	
<b>CASTEL</b>							
M. H. Dorey	29	24					5 declared interest
A. H. Adam	23	21	1			1	
T. M. Le Pelley	23	22	1				
S. J. McManus	22	22					
B. J. E. Paint	33	32				1	
B. M. Flouquet	24	18	1		3	2	
M. G. G. Garrett	31	25	3		1	2	

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/business/holiday	Other
<b>WEST</b>							
A. H. Brouard	17	16	1				
D. de G. De Lisle	20	18			1	1	
M. S. Lainé	26	20	3		2	1	
S. L. Langlois	38	38					
P. R. Sirett	25	21				4	
G. P. Dudley-Owen	19	15	1			3	
<b>SOUTH-EAST</b>							
C. N. K. Parkinson	38	31	1		1	5	
F. W. Quin	23	22	1				
M. G. O'Hara	19	17			1		1 flight delay
R. W. Sillars	21	19		1		1	
J. M. Le Sauvage	13	13					
M. P. J. Hadley	10	10					
<b>ALDERNEY REPRESENTATIVES</b>							
R. G. Willmott	11	7	2			1	1 fogbound
W. Walden	11	2		5	1	1	2 fogbound
<b>TOTAL</b>							
Number of meetings	1090	935	42	21	21	61	10
		85.8%	3.9%	1.9%	1.9%	5.6%	0.9%
<b>AVERAGE PER MEMBER</b>							
	23	20	0.8	0.4	0.4	1.3	0.2

## PART III – REPORT OF ATTENDANCE AND VOTING IN THE STATES OF DELIBERATION

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)	TOTAL NUMBER OF RECORDED VOTES	RECORDED VOTES ATTENDED
<b>ST PETER PORT SOUTH</b>				
B. L. Brehaut	13	13	28	28
C. S. McNulty Bauer	13	13	28	27
J. M. Tasker	13	13	28	27
R. Domaille	13	13	28	28
A. H. Langlois	13	13	28	28
J. Kuttelwascher	13	13	28	28
<b>ST PETER PORT NORTH</b>				
J. A. B. Gollop	13	13	28	27
R. R. Matthews	13	13	28	28
C. A. Steere	13	13	28	27
M. J. Storey	13	13	28	28
J. Honeybill	13	12	28	27
L. R. Gallienne	13	13	28	28
M. W. Collins	13	11	28	23
<b>ST SAMPSON</b>				
P. L. Gillson	13	13	28	27
S. J. Maindonald	13	10	28	18
S. J. Ogier	13	13	28	27
I. F. Rihoy	13	12	28	26
L. S. Trott	13	13	28	28
T. J. Stephens	13	13	28	26
<b>VALE</b>				
M. J. Fallaize	13	13	28	28
G. H. Mahy	13	11	28	24
A. Spruce	13	13	28	28
M. M. Lowe	13	13	28	28
G. Guille	13	10	28	23
D. B. Jones	13	12	28	26
A. R. Le Lièvre	13	13	28	27
<b>CASTEL</b>				
M. H. Dorey	13	13	28	28
A. H. Adam	13	13	28	28
T. M. Le Pelley	13	13	28	28
S. J. McManus	13	13	28	28
B. J. E. Paint	13	13	28	28
B. M. Flouquet	13	13	28	27
M. G. G. Garrett	13	13	28	28

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)	TOTAL NUMBER OF RECORDED VOTES	RECORDED VOTES ATTENDED
<b>WEST</b>				
A. H. Brouard	13	13	28	28
D. de G. De Lisle	13	13	28	28
M. S. Lainé	13	13	28	28
S. L. Langlois	13	13	28	27
P. R. Sirett	13	10	28	22
G. P. Dudley-Owen	13	13	28	28
<b>SOUTH-EAST</b>				
C. N. K. Parkinson	13	13	28	28
F. W. Quin	13	12	28	25
M. G. O'Hara	13	13	28	27
R. W. Sillars	13	13	28	28
J. M. Le Sauvage	13	13	28	28
M. P. J. Hadley	13	13	28	28
<b>ALDERNEY REPRESENTATIVES</b>				
R. G. Willmott	13	13	28	26
W. Walden	10	7	20	13
B. Kelly	3	3	8	6

**Note:**

The only inference which can be drawn from the attendance statistics in this part of the report is that a Member was present for the roll call or was subsequently *relévé(e)*.

Some Members recorded as absent will have been absent for reasons such as illness.

The details of all recorded votes can be found on the States' website –  
<http://www.gov.gg/ccm/navigation/government/states-meetings---billets-d-etat/states-members-voting-records/>

**PUBLIC ACCOUNTS COMMITTEE****CONCLUDING THE INVESTIGATION INTO THE AWARD OF THE  
CLINICAL BLOCK CONTRACT FOLLOWING  
IMPLEMENTATION OF THE RECOMMENDATIONS**

The Presiding Officer  
The States of Guernsey  
Royal Court House  
St Peter Port

15<sup>th</sup> December 2010

Dear Sir

**1 EXECUTIVE SUMMARY**

- 1.1 In 2006 the Public Accounts Committee (“the Committee”) commissioned the Auditor General for Wales and his team from the Wales Audit Office to review the Award of the Clinical Block contract. The subsequent report was appended to a report of the Public Accounts Committee and considered by the States of Deliberation in February 2007<sup>1</sup>.
- 1.2 The States of Deliberation resolved that the Committee monitor the progress made and should report back to the States at the end of 2007. Although the Committee provided an update by a statement under Rule 8 of the Rules of Procedure of the States of Guernsey, as found in Appendix I, the Committee was unable to report much progress at that time.
- 1.3 The Committee has continued to monitor the progress made against the fourteen recommendations and has been waiting the acceptance by the States of the final process and procedural change to implement them before reporting back to the States of Deliberation.
- 1.4 This report provides a brief outline of the initial review; the developments in financial processes and procedures since then and approved by the States of Deliberation in 2009; detailing the subsequent States Report or memorandum where consideration and approval of the implementation of each of the fourteen recommendations was given.

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<sup>1</sup> Billet d’Etat V, February 2007

- 1.5 It took some 33 months to consider, develop and approve the enormous changes to financial processes and procedures. But now that it has been done, the Committee is pleased that it can conclude this particular review, although it will continue to ensure that States bodies operate the highest standards in management of financial affairs.

## 2 BACKGROUND

- 2.1 In October 2006, the Health and Social Services Department (HSSD) presented a Report to the States recommending the award of a contract to construct a clinical block (Phase 5 at the PEH) to the only tenderer - Charles Le Quesne (Gsey) Ltd. - at a cost of £26,974,565. The Committee had been previously informed by the Minister of the HSSD of problems in the tendering process and the withdrawal of the only other tenderer. In light of this, the Committee carried out a brief, expeditious review.
- 2.2 The Committee documented its findings in a short report that was issued to States' Members at the said October 2006 States meeting. Efforts to re-instate a lower tender had not been legally possible and so the States of Deliberation resolved to award the contract to Charles Le Quesne (Gsey) Ltd. At the same time the States of Deliberation also supported a proposition for a full independent review of all circumstances leading to the award of the contract for the HSSD Princess Elizabeth Hospital - Phase 5 (commonly referred to as the Clinical Block).
- 2.3 During the latter half of 2006 the Auditor General for Wales and his team from the Wales Audit Office carried out the independent review: interviewing key individuals, examining relevant documentation and gaining an understanding of procedures at that time.
- 2.4 In the resultant report the Auditor General for Wales concluded that:

**“the withdrawal of the RG Falla Limited tender for the Princess Elizabeth Hospital (PEH) Clinical Block was the culmination of a series of process and procedural weaknesses, and a series of unplanned and unconnected events and actions which led to an outcome which was neither anticipated nor desired.”<sup>2</sup>**

and made fourteen recommendations for improving the way in which the States of Guernsey operated<sup>3</sup>.

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<sup>2</sup> Billet d'Etat V, February 2007, appended report “The Princess Elizabeth Hospital Clinical Block – Consideration of the circumstances which led to the withdrawal of the preferred tender in August 2006”, 25 January 2007, Auditor General for Wales and the Wales Audit Office, page 3.

<sup>3</sup> Ibid 2, page 11

- 2.5 In its covering report presented to the States of Deliberation in February 2007, the Committee undertook to monitor the implementation of the recommendations and to report back to the States on the progress made by the end of 2007. The States of Deliberation also directed the Policy Council to allocate the recommendations to the appropriate Departments for implementation.
- 2.6 The Policy Council allocated and distributed the recommendations in April 2007. However, when the Committee provided an update in the form of a statement at the December 2007 States' meeting (found appended to this report), it reported that none of the recommendations had been fully implemented.
- 2.7 Since then, the Committee has been monitoring the progress made against the recommendations and their implementation. This report concludes the matter following implementation of all the accepted recommendations.

### **3 DEVELOPMENTS IN FINANCIAL PROCESSES AND PROCEDURES OF THE STATES**

- 3.1 Recently the States of Deliberation approved procedures brought forward by the Treasury and Resources Department to ensure that the States operate to the highest standards in the management of their financial affairs, resolving a number of issues previously raised by the Committee through its recommendations.
- 3.2 Following the Committee's review into the Beau Sejour Redevelopment in 2005, the States resolved that the Treasury and Resources Department should review the existing procedures and processes, including timing, for setting budgets for specific individual capital projects<sup>4</sup>. The States of Deliberation also resolved that the Committee should monitor such action taken by Departments and should report back when appropriate.
- 3.3 For the purpose of complying with these Resolutions, the Committee has met with the staff of the Treasury and Resources Department on a number of occasions to ensure that appropriate action has been taken. However, before the Treasury and Resources Department could fully review the procedures and processes following the Beau Sejour review, a further review on the award of the Clinical Block re-emphasised the need for improvement.
- 3.4 With two major reviews of the Committee indicating the shortcomings in the processes and procedures for capital projects, the Treasury and Resources Department was already taking action to make changes. In its reply to the Policy Council in 2007, the Department was able to reply that updating the Accounting and Administrative Guidelines including capital project issues, would be a priority of the new Chief Accountant, who at that time had not commenced work.

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<sup>4</sup> Billet d'Etat III, January 2006.



- 3.5 Throughout 2008 and 2009 the Committee monitored the development of procedures by direct involvement and commentary on the drafts of the Construction Codes of Practice directives being prepared by the staff of the Treasury and Resources Department, with special focus on its role in post implementation reviews. Further scrutiny was also carried out on two sets of draft Financial and Resource Management Rules during 2009 and 2010.
- 3.6 Even though the focus has been on construction contracts, the Committee has ensured that similar changes were being made to other contracts which the States would become party to, such as those for information technology and in 2008 reviewed the implementation of the Guernsey Integrated Social Security System<sup>5</sup>.
- 3.7 Although the Financial and Resource Management Rules and some directives have been produced, the work is not complete and the Committee will continue to monitor directives and guidelines as they are produced. Furthermore, it will undertake, through future reviews, to ensure that the mandatory Financial and Resource Management Rules are adhered to.
- 3.8 The Policy Council directed four of the recommendations to the House Committee (now called States Assembly and Constitution Committee) regarding the matters on guidance for States members. These were considered by the States in February 2008<sup>6</sup> with the remaining recommendation on providing guidance to staff on notes regarding States members meetings concluding in March 2008.

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<sup>5</sup> Billet d'Etat III, March 2008

<sup>6</sup> Billet d'Etat II, February 2008

**4 DETAILS ON THE IMPLEMENTATION OF THE WAO RECOMMENDATIONS - BILLET V, FEBRUARY 2007.**

<b>WAO Recommendation Number</b>	<b>Recommendation</b>	<b>Accepted Y/N</b>	<b>Evidence of implementation</b>	<b>Date completed</b>
1	There is a need to determine whether the total funding requirements for capital schemes should be approved prior to undertaking detailed design work and inviting tenders.	Y	Determined and approved by the States: Billet IX, 27 May 2009 – Capital Prioritisation and Billet XXIV, 29 September 2009 – Capital Prioritisation; and Billet XXXI, 25 November 2009 – Review of Administrative and Accounting Guidelines and States’ Financial Procedures Found in the Construction Codes of Practice mandatory directive	November 2009
2	The processes and procedures for letting, managing and scrutinising capital contracts needs to be reviewed and updated to take into account the Machinery of Government changes and public sector good practice.	Y	Determined and approved by the States: Billet XXIV, 29 September 2009 – Corporate Property Plan; and Billet XXXI, 25 November 2009 – Review of Administrative and Accounting Guidelines and States’ Financial Procedures Found in the Construction Codes of Practice mandatory directive	September 2009

3	Guidance for contract letting arrangements to clearly define roles and responsibilities.	Y	Determined and approved by the States: Billet XXIV, 29 September 2009 – Corporate Property Plan: and Billet XXXI, 25 November 2009 – Review of Administrative and Accounting Guidelines and States’ Financial Procedures Found in the Construction Codes of Practice mandatory directive	November 2009
4	There is a need to decide whether limits should be introduced on the amount of work that the States would be prepared to award to a single contractor, and what those limits would be.	Y	Although considered by the Treasury and Resources and Commerce and Employment Departments jointly in 2007/2008, this recommendation was difficult to execute. An alternative method was considered and incorporated in the Financial and Resource Management Rules approved by the States through acceptance of Billet XXXI, 25 November 2009 – Review of Administrative and Accounting Guidelines and States’ Financial Procedures. Contained within the mandatory directives for staff entitled the Construction Codes of Practice and Procurement Handbook	November 2009

5	There is a need to review current policy of not mandating the requirement for performance bonds, insurance cover and to review parent company guarantees to establish if these practices should be made mandatory.	Y	Reviewed by Treasury and Resources and Commerce and Employment Departments in 2007/08, it was considered unnecessary to change policy and as such was not incorporated in the mandatory rules approved by the States in November 2009.	April 2008
6	There is a need to evaluate whether the construction industry Economic Model is fit for purpose. If it is considered to be fit for purpose, the roles and responsibilities for its management need to be clearly defined and executed.	Y	The Economic Model was evaluated by a joint group from Treasury and Resources and Commerce and Employment Departments and found that it was not fit for purpose. An alternative was found and incorporated in Billet XXIV, 29 September 2009- Capital Prioritisation	September 2009
7	There is a need to ensure that the timing of major capital schemes is effectively managed to avoid, wherever possible, 'peaks and troughs' within the construction industry as a result of the confluence of major schemes.	Y	Determined and approved by the States within Billet XXIV, 29 September 2009- Capital Prioritisation	September 2009
8	There is a need to develop a robust methodology for prioritising capital expenditure which sets out the criteria to be used and the frequency of prioritisation exercises.	Y	Determined and approved by the States: Billet IX, 26 May 2009 – Capital Prioritisation and Billet XXIV, 29 September 2009 – Capital Prioritisation. Also within Billet XXIV, 29	November 2009

				September 2009 – Corporate Property Plan and Billet XXXI, 25 November 2009 – Review of Administrative and Accounting Guidelines and States’ Financial Procedures - as part of the Construction Codes of Practice mandatory directives.			
9		There is a need to clarify the procedure and formalise the methodology used to undertake financial evaluations of contractors. This needs to cover responsibilities, timing, documentation and the criteria to be applied.	Y	Determined and approved by the States Billet XXXI, 25 November 2009 – Review of Administrative and Accounting Guidelines and States’ Financial Procedures. Also at staff level, found in detail within directives on the Procurement Handbook and Construction Codes of Practice.	Y		November 2009
10		To minimise the risk of misinterpretation, the issuing of guidance to officers on the compilation and retention of notes used to support briefings given to States Members needs to be considered.	Y	The Chief Officer Group considered the guidance at its meeting on 14 December 2007. The guidance was issued by the Chief Executive to all Chief Officers on 14 March 2008.	Y		March 2008
11		Guidance should be developed for politicians on meetings or discussions with external parties. This guidance should cover appropriateness of meetings, procedures, recording, timing and whether officer support is needed.	Y	Determined and approved by the States: Billet II, 27 February 2008 – “Welsh Audit Office Report – Implementation of Recommendations”	Y		February 2008

12	Consideration should be given to whether notes of key meetings used to prepare minutes are kept for a defined period in case of dispute. An option to make audio recordings of proceedings would achieve a similar objective.	Y	Considered and approved by the States Billet II, 27 February 2008 – “Welsh Audit Office Report – Implementation of Recommendations”	February 2008
13	Consideration needs to be given as to whether the States should debate the general issues of member interests, in particular the compatibility of political and business and other outside interests.	Y	Considered and approved by the States that it is kept under review: Billet II, 27 February 2008 – “Welsh Audit Office Report – Implementation of Recommendations”	February 2008
14	A procedure should be put in place for the handling of minutes or agenda papers setting out whether such documentation should be distributed to individuals who have declared their interest in an item under discussion.	Y	Considered and approved by the States Billet II, 27 February 2008 – “Welsh Audit Office Report – Implementation of Recommendations”	February 2008

## 5 CONCLUSION

- 5.1 In January 2007 the WAO concluded that a series of process and procedural weaknesses, some of which were connected with capital projects, contributed to the withdrawal of the preferred tender. Given the changes in personnel, both political and staff, since the review findings were released, it took some considerable time for the recommendations to be advanced.
- 5.2 The Committee is pleased that full consideration was given to the recommendations and appropriate action taken to implement them or find alternatives. States approval in 2009 of the mandatory Financial and Resource Management Rules and Capital Prioritisation processes concluded eight of the fourteen recommendations, with a further four, being completed by amendments made to the Rules of Procedure in February 2008. The other recommendation was implemented in March 2008.
- 5.3 The advances made in strengthening the standards in the management of financial affairs, the introduction of mandatory rules and improvement in Rules of Procedure since 2007 should be recognised and those involved in achieving those outcomes deserve congratulations.
- 5.4 The Committee will continue its work to ensure that mandatory standards are improved and adhered to as its experience grows in carrying out value for money reviews and investigations.
- 5.5 As the Clinical Block is now open, a post implementation review is being carried out. The Committee is awaiting its delivery so that it can assess how the capital project was carried out and whether there were any lessons to be learnt for future projects.

Yours faithfully

Barry Paint  
Vice Chairman

**PUBLIC ACCOUNTS COMMITTEE**

**DECEMBER 2007 STATEMENT**

**PROGRESS ON THE IMPLEMENTATION OF THE RECOMMENDATIONS  
FROM THE INVESTIGATION INTO  
THE AWARD OF THE CLINICAL BLOCK CONTRACT.**

Sir

Members of the States, under Rule 8 of the Rules of Procedure, the Presiding Officer of the States has kindly permitted me to make the following statement. Copies of this statement will be handed out and it can also be found on the website at gov.gg

In February 2007 the Public Accounts Committee presented the findings of an independent review on the award of the clinical block contract carried out by the Wales Audit Office.

Following debate, the States resolved inter alia:

“2. To direct the Policy Council to determine which Departments/Committees be responsible for implementing the recommendations listed in paragraph 4.2 of that Report and for the Council then to request those relevant Departments/Committees to implement the recommendations.

3. To note that the Public Accounts Committee will monitor the progress made by the Departments/Committees in the implementation of the recommendations listed in paragraph 4.2 of that Report and to report progress back to the States before the end of 2007”.

In accordance with the States wishes, the Public Accounts Committee has been monitoring progress through a series of letters to the Policy Council throughout the year and, more recently, in correspondence with the Departments and the Committee which had been allocated the recommendations to consider and implement.

This statement indicates the progress made on the fourteen recommendations arising from the review as at the end of 2007.

In April the Policy Council determined which Departments/Committees should be responsible for each of the recommendations and instructed them to report back to the Policy Council by 31 July 2007. Two Departments, Treasury and Resources and Commerce and Employment Departments, responded by the deadline with the House Committee response received in October 2007 – the delay being due to its lack of dedicated staff resources, which has now been resolved.

The Policy Council considered the responses at its meeting on 26 November 2007.



Full details on the progress made in respect of each of the recommendations and the action taken to implement them is attached. In summary:

- The Treasury and Resources Department proposed setting up a Programme Board with a membership of the four Departments/Committee/Council involved in implementing the recommendations – the Policy Council supported this proposal but only in respect of the property issues and limited to the Treasury and Resources and Commerce and Employment Departments.
- Many of the recommendations arising from this investigation related to the lack of clear guidance on the processes for capital projects. The Treasury and Resources Department has indicated that the new Chief Accountant will be leading the review to update the Accounting and Administrative Guidelines, including these capital project issues, as a priority.
- An alternative to the Economic Model of the Construction Industry is being considered.
- Other Wales Audit Office recommendations relate to changes which will require approval of the States. The House Committee will be bringing a report to the States with clear proposals.
- The Policy Council has requested that the House Committee reconsider its original decision and bring the matter regarding Members' interests to the States for debate.
- The Chief Executive will now issue guidance on the retention of minute taking notes.

Although some progress has been made in carrying the fourteen recommendations forward, there is still some way to go before processes, procedures, rules and guidance notes will have been changed to rectify the shortcomings identified by the Wales Audit Office. Some of the recommendations involve major changes and may take considerable time to implement.

The States will have the opportunity to discuss some of the recommendations when the Departments and House Committee bring proposals to the States for those issues requiring States approval.

In view of the fact that none of the recommendations have been fully implemented in the last nine months, the Public Accounts Committee will continue to monitor progress on all the issues and will report back when appropriate.

Deputy L Gallienne  
 Chairman  
 Public Accounts Committee  
 7 December 2007

cont'd Appendix

## Progress on Recommendations from Billet D'État

<b>Recommendation One</b>			
There is a need to determine whether the total funding requirements for capital schemes should be approved prior to undertaking detailed design work and inviting tenders.			
Allocated to:	Treasury and Resources Department		
Recommendation:	<b>Accepted</b>	Rejected	Alternative
Proposed Action:	Treasury and Resources Department's States Property Services is in the process of developing Codes of Practice which will guide a capital project of over £250,000 through the six stages of the capital project lifecycle and introduce well managed gateway reviews. It is planned that these Codes of Practice will be incorporated into the replacement Administrative and Accounting Guidelines.		
Policy Council Consideration of Proposals:	The Policy Council supported the proposals to update the guidance regarding capital projects but noted that it could take some time to complete.		

<b>Recommendation Two</b>			
The processes and procedures for letting, managing and scrutinising capital contracts needs to be reviewed and updated to take into account the Machinery of Government changes and public sector good practice.			
Allocated to:	Treasury and Resources Department		
Recommendation:	<b>Accepted</b>	Rejected	Alternative
Proposed Action:	The proposed Codes of Practice will include the processes involved in the capital project lifecycle and also cover the proposed brief scrutiny throughout the project life through gateway reviews as well as providing guidance on capital contracts.		
Policy Council Consideration of Proposals:	The Policy Council supported the proposals to update the guidance regarding capital projects but noted that it could take some time to complete.		

<b>Recommendation Three</b>			
Guidance for contract letting arrangements to clearly define roles and responsibilities.			
Allocated to:	Treasury and Resources Department		
Recommendation:	<b>Accepted</b>	Rejected	Alternative
Proposed Action:	This will be included in the Code of Practices along with the Recommendation Two.		

Policy Council Consideration of Proposals:	The Policy Council supported the proposals to update the guidance regarding capital projects but noted that it could take some time to complete.
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<b>Recommendation Four</b>			
There is a need to decide whether limits should be introduced on the amount of work that the States would be prepared to award to a single contractor, and what those limits would be.			
Allocated to:	Treasury and Resources Department with Commerce and Employment Department		
Recommendation:	<b>Accepted</b>	Rejected	Alternative
Proposed Action:	Both Departments consider that this should be part of the risk assessment at the pre-tender and award stage and that it should be included in the revision of the Accounting and Administrative Guidelines. Meetings have been held between the interested parties and more are planned to progress this in the best interests of the States.		
Policy Council Consideration of Proposals:	The Policy Council supported the proposals to update the guidance regarding capital projects but noted that it could take some time to complete.		

<b>Recommendation Five</b>			
There is a need to review current policy of not mandating the requirement for performance bonds, insurance cover and to review parent company guarantees to establish if these practices should be made mandatory.			
Allocated to:	Treasury and Resources Department with Commerce and Employment Department		
Recommendation:	<b>Accepted</b>	Rejected	Alternative
Proposed Action:	This will be considered when revising the Administrative and Accounting Guidelines. This workstream has been delayed pending the arrival of the new Chief Accountant, whose duties will include this priority area.		
Policy Council Consideration of Proposals:	The Policy Council supported the proposals to update the guidance regarding capital projects but noted that it could take some time to complete.		

<b>Recommendation Six</b>			
There is a need to evaluate whether the construction industry Economic Model is fit for purpose. If it is considered to be fit for purpose, the roles and responsibilities for its management need to be clearly defined and executed.			
Allocated to:	Commerce and Employment Department with Treasury and Resources Department		
Recommendation:	<b>Accepted</b>	Rejected	Alternative
Proposed Action:	Evaluated that the Economic Model is not fit for purpose and that an alternative would be more beneficial as there is still a need to monitor the		

	construction industry. Consideration is being given with Treasury and Resources Department to develop an alternative.
Policy Council Consideration of Proposals:	The Policy Council supported the proposals to develop a simple alternative to the Economic Model and determined that it would be jointly considered by the Programme Board set up to consider the capital project recommendations.

### Recommendation Seven

There is a need to ensure that the timing of major capital schemes is effectively managed to avoid, wherever possible, 'peaks and troughs' within the construction industry as a result of the confluence of major schemes.

Allocated to:	Treasury and Resources Department with Commerce and Employment Department		
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Recommendation:	<b>Accepted</b>	Rejected	Alternative
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Proposed Action:	The development of a robust methodology for prioritising States capital expenditure and the Economic Model are interlinked with the timing of major schemes. Although discussion has commenced between the two interested Departments there is still more to be considered before achieving a clear way forward.
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Policy Council Consideration of Proposals:	The Policy Council supported the proposals to include this with the work on the alternative to the Economic Model, but noted that it could take some time to implement.
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### Recommendation Eight

There is a need to develop a robust methodology for prioritising capital expenditure which sets out the criteria to be used and the frequency of prioritisation exercises.

Allocated to:	Treasury and Resources Department
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Recommendation:	<b>Accepted</b>	Rejected	Alternative
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Proposed Action:	Stage one of the Code of Practice sets out a method to prioritise all capital expenditure which has already been approved by the Treasury and Resources Department.
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Policy Council Consideration of Proposals:	The Policy Council supported the programme of work that the Treasury and Resources Department planned to develop a robust method to prioritise capital expenditure.
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### Recommendation Nine

There is a need to clarify the procedure and formalise the methodology used to undertake financial evaluations of contractors. This needs to cover responsibilities, timing, documentation and the criteria to be applied.

Allocated to:	Treasury and Resources Department
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Recommendation:	<b>Accepted</b>	Rejected	Alternative
Proposed Action:	Treasury and Resources Department are considering methods to make this practicable, by developing the pre-tender questionnaire to provide more financial details for example. The revised Administrative and Accounting Guidelines will incorporate this recommendation further.		
Policy Council Consideration of Proposals:	The Policy Council supported the proposals to update the guidance regarding capital projects but noted that it could take some time to complete.		

#### Recommendation Ten

To minimise the risk of misinterpretation, the issuing of guidance to officers on the compilation and retention of notes used to support briefings given to States Members needs to be considered.

Allocated to:	Policy Council		
Recommendation:	<b>Accepted</b>	Rejected	Alternative
Proposed Action:	The Chief Executive has been requested to issue general advice to cover this issue, in consultation with the Chief Officers.		

#### Recommendation Eleven

Guidance should be developed for politicians on meetings or discussions with external parties. This guidance should cover appropriateness of meetings, procedures, recording, timing and whether officer support is needed.

Allocated to:	House Committee		
Recommendation:	<b>Accepted</b>	Rejected	Alternative
Proposed Action:	The House Committee propose that guidance be provided to politicians on meetings with external parties. It proposes to take the matter to the States before April 2008.		
Policy Council Consideration of Proposals:	Policy Council has requested the House Committee to proceed with its proposed States Report.		

#### Recommendation Twelve

Consideration should be given to whether notes of key meetings used to prepare minutes are kept for a defined period in case of dispute. An option to make audio recordings of proceedings would achieve a similar objective.

Allocated to:	House Committee		
Recommendation:	<b>Accepted</b>	Rejected	Alternative

Proposed Action:	The House Committee propose that specific guidance is given in respect of retention of meeting notes to reflect the proposals. It aims to take the matter to the States before April 2008.
Policy Council Consideration of Proposals:	Policy Council has requested the House Committee to proceed with its proposed States Report.

### Recommendation Thirteen

Consideration needs to be given as to whether the States should debate the general issues of member interests, in particular the compatibility of political and business and other outside interests.

Allocated to:	House Committee		
Recommendation:	Accepted	<b>Rejected</b>	Alternative
Proposed Action:	The House Committee considers that the Code of Conduct, which was not in place in August 2006, covers this area adequately and that there is no requirement for the States to debate issues surrounding member interests further.		
Policy Council Consideration of Proposals:	The Policy Council has requested the House Committee to reconsider its decision to not place the matter before the House. It is of the view that it would be desirable for States members to be afforded the opportunity to debate this recommendation further.		

### Recommendation Fourteen

A procedure should be put in place for the handling of minutes or agenda papers setting out whether such documentation should be distributed to individuals who have declared their interest in an item under discussion.

Allocated to:	House Committee		
Recommendation:	<b>Accepted</b>	Rejected	Alternative
Proposed Action:	The House Committee propose that specific guidance be given in respect of the distribution of minutes and agendas. The House Committee aim to bring the matter to the States before April 2008.		
Policy Council Consideration of Proposals:	Policy Council has requested the House Committee to proceed with its proposed States Report.		