



BILLET D'ÉTAT

XX
2010

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B I L L E T D ' É T A T

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **29th SEPTEMBER, 2010**, immediately after the meetings of the States of Election and the States of Deliberation already convened for that day, 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
20 August 2010

PROJET DE LOI

entitled

THE PRISON (ENABLING PROVISIONS) (GUERNSEY) LAW, 2010

The States are asked to decide:-

I.- Whether they are of the opinion to approve the Projet de Loi entitled “The Prison (Enabling Provisions) (Guernsey) Law, 2010” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE CONDITIONS OF EMPLOYMENT
(AMENDMENT) ORDINANCE, 2010**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Ordinance entitled “The Conditions of Employment (Amendment) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

**THE MINIMUM WAGE (GUERNSEY)
(COMMENCEMENT) ORDINANCE, 2010**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Minimum Wage (Guernsey) (Commencement) Ordinance, 2010” and to direct that the same shall have effect as an Ordinance of the States.

POLICY COUNCIL

STRATEGIC LAND USE PLAN – OPTIONS PAPER

The Policy Council submits the attached report, prepared by the Strategic Land Planning Group, for consideration by the States.

The Strategic Land Planning Group, which is appointed by the Policy Council in accordance with section 3 of the Land Planning and Development (Guernsey) Law, 2005, is seeking to give the States an opportunity to consider and debate possible options for the future direction of strategic land use planning.

It is proposed that the report be debated under rule 12(4) of the Rules of Procedure so that the general principles of the policy options can be considered without amendment to the formal propositions. The Strategic Land Planning Group will prepare, and the Policy Council will submit to the States detailed proposals in due course having taken into account the views of members of the States expressed during the debate.

The Policy Council recommends the States, in accordance with Rule 12(4) of the Rules of Procedure to:

1. Note the programme for the preparation of a revised Strategic Land Use Plan, including the involvement of States members in the development of a preferred strategy.
2. Note that the Urban Area Plan (Review 1) and the Rural Area Plan (Review 1) and any alterations and additions thereto approved by the States are effective until July 2012 and December 2015, respectively, subject to extension of that period at any time by resolution of the States, and to any alterations made to either under the Land Planning and Development (Guernsey) Law, 2005.

LS Trott
Chief Minister

27th July 2010

STRATEGIC LAND PLANNING GROUP

STRATEGIC LAND USE PLAN REVIEW – OPTIONS PAPER

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1 EXECUTIVE SUMMARY

1.1 The Strategic Land Planning Group has prepared this report to provide the States with an opportunity to consider and debate possible options for the future direction of strategic land use planning.

1.2 The Strategic Land Planning Group is a statutory body with responsibility for producing the island's Strategic Land Use Plan for consideration and approval by the States. The Strategic Land Use Plan provides guidance for the preparation of Development Plans by the Environment Department to ensure that its Plans achieve the States' agreed economic, social and environmental objectives.

1.3 The current Strategic Land Use Plan, which was approved in 2007, is based on the land use Strategy that was introduced twenty years ago. Put simply, the land use strategy aims to accommodate the majority of new development in the urban area while conserving and enhancing the rural environment. The strategy informed the policies of the current Urban and Rural Area Plans which continue to be effective in terms of prioritising the redevelopment of previously developed land and the re-use of existing buildings.

1.4 In the light of continuing pressure for development and change and concerns about the capacity of the urban area to accommodate future development requirements, however, questions have been raised about the longer term sustainability of the urban-rural split. There is therefore a need to review the current strategy and develop a revised strategy that is capable of dealing with the challenges and opportunities facing the island over the next 20 years.

1.5 A broad cross section of people have been involved in the review process under the banner of Guernsey Tomorrow, in order to gain a better understanding of the sort of place that Guernsey should be in the future. The views and opinions gathered through the Guernsey Tomorrow initiative have helped to define the options presented in this report. The perceptions of the public gleaned from Guernsey Tomorrow have been balanced with the particular strategic requirements identified by the States Strategic Plan, other plans, policies and programmes and advice from relevant States departments. As a result the Strategic Land Planning Group has established a list of nine desired outcomes that the revised land use strategy should aim to achieve, which are summarised in the table below:

SOCIAL & COMMUNITY	BUSINESS	ENVIRONMENT
Socially inclusive & diverse communities & neighbourhoods	A range of business opportunities for new & innovative enterprises	A high quality & accessible physical environment
A range of training & employment opportunities to match all skills & needs	A globally competitive centre of economic growth	Effective & efficient conservation & use of land & buildings
A safe, secure & accessible environment for all	Sustainable management & wise use of environmental resources	Protection & enhancement of the natural & built environment

1.6 Having worked with a broad range of people to identify the key challenges and opportunities facing the island, people participating in Guernsey Tomorrow were invited to develop their views and to produce sets of ideas for the future planning of the island. This process of public engagement has led to the identification of three broad strategic land planning options, namely:

- 1) OPTION 1: Development continuing to be concentrated primarily in the urban centres of St Peter Port and St Sampson with some expansion in the outer areas
- 2) OPTION 2: Development focused around a hierarchy of centres ranging from the principal centres of Town and the Bridge down to the main parish and other local centres
- 3) OPTION 3: Development spread around the island on any site that meets standard criteria in terms of available services and acceptable impacts

Considering the three options presented in this report against the outcome statements listed above, the Strategic Land Planning Group is minded to favour a preferred strategy based on Option 2. However, the Strategic Land Planning Group will listen to the points raised by States members in the debate and will take these into account in developing a preferred strategy. Following the debate the Strategic Land Planning Group intends to organise a series of workshops with groups of States members to help it develop that strategy in greater detail.

1.7 The work on the preferred strategy will form the basis for a revised Strategic Land Use Plan, which will be presented to the States for its approval in early 2011. The revised Strategic Land Use Plan will then provide guidance to the Environment Department for the replacement of the current Urban and Rural Area Plans. The Strategic Land Planning Group envisages that the new plans will be very different from their forerunners. It anticipates that the new plans will be better geared towards shaping places to successfully achieve the desired outcomes the public has helped identify, with greater emphasis on the priorities, initiatives and actions required to support the effective delivery of development and to ensure the sound management of urban, rural and coastal areas.

2 INTRODUCTION

Purpose of this report

2.1 This paper has been prepared by the Strategic Land Planning Group to provide the States with an opportunity to consider and debate a range of options for the revised Strategic Land Use Plan. The options reflect a broad spectrum of public opinion. The aim is to stimulate a full debate about the possible future direction for planning land use development and change and to note the proposals for developing a preferred strategy.

2.2 The options do not represent fully worked up strategies and it is not expected that a majority of Members will necessarily support any single option. The preferred strategy may well be a balance between more than one of the options. The views and opinions expressed in the debate will, however, help to indicate if the States are leaning towards a particular direction and will inform the subsequent Member workshops which will provide a forum for developing the preferred strategy.

The Strategic Land Planning Group

2.3 The Strategic Land Planning Group is a statutory body appointed by the Policy Council and formally constituted under the provisions of The Land Planning and Development (Guernsey) Law, 2005. The Strategic Land Planning Group has seven members. Its Chairman and Deputy Chairman are nominated by the Policy Council. The remaining members are each nominated respectively by the Environment Department and by other departments with significant responsibility in relation to the environment, namely the Commerce and Employment Department, the Culture and Leisure Department, the Housing Department and the Public Services Department. The current members of the Strategic Land Planning Group are listed in Appendix 1.

The Strategic Land Use Plan

2.4 The primary duty of the Strategic Land Planning Group is the preparation of the Strategic Land Use Plan. The Strategic Land Use Plan provides general guidance and specific directions to the Environment Department to ensure it achieves the States' agreed strategic, economic, social and environmental objectives in the exercise of its planning functions. The agreed strategic, economic, social and environmental objectives of the States are set out in the States Strategic Plan.

3 BACKGROUND AND CONTEXT

How the land use strategy has developed

3.1 The current land use strategy dates back to the late 1980's. Before then, there was no overall strategy for the physical planning of the island. Since the introduction of a comprehensive planning system in the late 1960's, the States has embarked on a programme of Detailed Development Plans covering sections of the island. There were to be six in all. However, no sooner had one Development Plan been produced than one or more of the preceding plans covering other sections of the island needed to be reviewed. Because there was no overall strategy, the Development Plan that was being prepared at any one time took the burden of the projected development requirements for the next five years. Just as there was no overall prioritisation over where development took place, there was equally no clear direction for what form of development was provided which meant that issues about competing land uses were unresolved. Most damaging of all was the pervasive spread of suburbanisation across the island which was leading to the loss of open countryside and undermining the vitality and viability of the town through under-investment.

3.2 When the States considered an economic appraisal of the island in 1987, the need for a revised physical planning strategy was identified as a key component of the recommended policy planning process. The land use strategy that was subsequently agreed by the States has remained unchanged fundamentally for the last two decades. The basic foundation of the strategy is the need to reinforce the distinction between town and countryside. To do this, the strategy aims to accommodate the majority of new development in the towns of St Peter Port and St Sampson and to conserve and enhance what remains of the island's countryside. This approach is sometimes described as the urban-rural split.

The current Strategic Land Use Plan

3.3 The land use strategy is enshrined in the Strategic Land Use Plan (formerly called the Strategic and Corporate Plan), which provides strategic direction for the preparation of Development Plans by the Environment Department. The first version of the plan was introduced in 1990, which provided an integrated and comprehensive framework for the land use requirements that needed to be addressed in the first round of Urban and Rural Area Plans. The plan was comprehensively revised and refreshed in 2000, as a precursor to the plan reviews for the Urban and Rural Areas, but without altering the underlying rationale described in 3.2 above. New strategic policies in relation to housing, the visitor economy, industry and waste have resulted in policy additions and adjustments that have then informed amendments and revisions to the Urban and Rural Area Plans. The current version of the Strategic Land Use Plan was approved in 2007 (Billet d'État XVIII) and is reproduced in Appendix 2 for ease of reference.

The Development Plans

3.4 Plan coverage of the island is split between an Urban Area Plan and a Rural Area Plan (as shown in Appendix 3). This division reflects the overall strategy of reinforcing the distinction between town and country and the different emphasis between accommodating the majority of the island's development requirements in the urban areas and conserving and enhancing the countryside in the rural areas.

3.5 The first review of the Urban Area Plan was approved by the States in 2002. The revised Rural Area Plan (merging the original two phases into a single plan) was approved in 2005. Since their adoption, the Plans have been refreshed and updated by several additions and amendments including the Outline Planning Briefs for Belgrave Vinery, Leales Yard and Longue Hougue and policy alterations to facilitate rationalisation of the visitor accommodation sector and to provide for low key industry. Earlier this year, the States approved interim amendments to both the Urban and Rural Area Plans to ensure that the development plans remain sufficiently robust and flexible to meet the island's current development requirements pending their review.

3.6 The States have previously agreed to extend the life of the Urban Area Plan to the end of 2010. However, the Urban Area Plan and the Rural Area Plan are deemed to

be Development Plans under the provisions of the new planning Law¹ and as such they have effect for 10 years from the date of their adoption by the States under section 13 of the Plans Ordinance². It is understood that the Environment Minister will be clarifying the Department's position regarding the review of the Urban and Rural Area Plans at the earliest opportunity.

3.7 In keeping with the current land use strategy, the majority of new development is taking place on previously developed land (brown field sites) in the urban areas in the form of redevelopment or conversion of existing buildings. In terms of residential development, practically 100% is being provided on brown field sites with 68% of all new residential development being within the Urban Area and 32% within the Rural Area³. Since 2002, none of the green field sites that are reserved in the Urban Area as Housing Target Areas have needed to be developed. However, the monitoring of specific housing needs (especially older people's accommodation) and levels of provision to satisfy those needs indicate that one or more of the Housing Target Areas may need to be brought forward for development in the near future. The Housing Department and the Environment Department are currently investigating this matter and will be reporting to the States in due course.

The need for the present review

3.8 As noted above, the land use strategy upon which the Strategic Land Use Plan and the Development Plans are based is now 20 years old. In those two decades, the island has experienced substantial demographic, economic, social and environmental change and development. Issues such as the ageing population, global economic competitiveness and restructuring of the local economy, the availability of affordable housing and climate change have come to the fore.

3.9 As intended, the strategy has successfully limited suburban sprawl and has shifted the focus on urban regeneration, bringing about the beneficial redevelopment of previously run-down areas. However, some concerns have been expressed that concentrating major development in the urban areas has sometimes been at the expense of architectural heritage, open space and visual appearance and that increased development, traffic movements and activity have detracted from the quality of life in the urban areas. At the same time, open land in the rural area has been protected from development but the character of the countryside is changing from one of farming and growing to more domestic and recreational uses of land.

3.10 The States Environmental Policy Plan notes that:

¹ Section 7(1) of The Land Planning and Development (Guernsey) Law, 2005

² Section 13 of The Land Planning and Development (Plans) Ordinance, 2007

³ Monitoring figures provided by the Environment Department for 2009.

“with a drive to diversify the island’s economic sectors; a need to provide for essential infrastructure including care facilities, homes, schools, water storage, energy provision, transport and waste treatment; a requirement to accommodate technological progress demanded by world class finance facilities; and a desire to provide enhanced culture and leisure facilities for locals, tourists and business visitors, the island faces very real land use competition.

This demand for development raises questions about the rural/urban area split and the policies relating to those areas, as well as the scope to reclaim land and exploit the foreshore. This in turn raises questions about the nature of development, the cultural identity of Guernsey and the sustainability of development techniques.

Guernsey must now develop a land use strategy fit for the next 25 years which addresses these issues and challenges”.

4 THE REVIEW PROCESS

Guernsey Tomorrow

4.1 Amid increasing concerns about the pace and scale of development and change measured against the island’s capacity to accommodate the pressures for development, the Strategic Land Planning Group decided that it was important to involve the public in the process of considering the way ahead and to do so in a fresh and open-minded way. This has meant inviting people to help generate ideas for possible courses of action, rather than be asked to comment on a pre-determined set of ‘options’.

4.2 Between September 2008 and December 2009, the Guernsey Tomorrow initiative engaged directly with close to 1000 people reflecting a broad cross section of the community in terms of age, gender and interests. Participants ranged in age from 90 years to 9 years, with about a third of those taking part being under 19 years. Men and women with a wide range of commercial, environmental, cultural and social interests took part. People with learning difficulties and with physical and visual impairment were also involved. Given the longer term implications of any revised land use strategy, it was particularly important to engage with young people who themselves would have jobs, homes and families at the time that the strategy is taking effect.

4.3 The first step in the process was to gather together as much relevant information as possible in a baseline study. The baseline study presents a portrait of Guernsey as it is and highlights the trends and changes that are impacting upon its character and identity. The baseline information was used to identify some of the key planning issues, problems and opportunities that may need to be addressed.

4.4 Through a series of interactive workshops and public drop-in sessions more than 600 people were invited to suggest other important issues that we may have overlooked, to indicate which issues were of most concern and then to prioritise their selected issues.

4.5 The overall results from this first round of consultations were used to identify 50 ‘good, bad and ugly’ aspects of the island and a list of 32 ‘Headline’ issues (see Appendix 4). These were used in the second round of consultation to help people develop their views and to produce sets of ideas for the future planning of the island in the form of annotated maps supported by a summary of key action points. A full explanation of the Guernsey Tomorrow initiative was published and is available on-line at www.guernseytomorrow.gg.

4.6 In summary, the Guernsey Tomorrow initiative has provided a wealth of information about the island characteristics that people value the most and about what people perceive to be the major challenges and opportunities facing the island; through a range of ‘hands on’ activities and events, people were prompted to contribute their own thoughts and opinions, which later were used to help them develop their thinking into a set of conceptual strategies. Those thoughts, opinions and conceptual strategies have helped the Strategic Land Planning Group to define the desired outcomes (see 4.12 below and Appendix 5) and spatial planning options (see Section 5) presented in this report.

The States Strategic Plan

4.7 The Strategic Land Use Plan is one of the four Island Resource Plans underpinning the States Strategic Plan. The other Island Resource Plans cover Energy, Population Management and Island Infrastructure. The Strategic Land Use Plan will need to provide a high level spatial planning framework that is sufficiently flexible to respond to alternative scenarios for development and growth.

4.8 In order to support the delivery of policies aimed at achieving the economic, social and environmental objectives contained within the States Strategic Plan, the Strategic Land Planning Group wants to produce a new type of Strategic Land Use Plan that is strategic, integrated and outcomes focused. This means that the plan will concentrate on the broad courses of action that need to be followed to achieve a set of identifiable and measurable results through the use and management of land as a strategic resource; rather than only looking narrowly at the way that specific issues and targets are met.

4.9 The planning horizon of the Strategic Land Use Plan extends far beyond the plan period of the States Strategic Plan and therefore it needs to ensure that the island can adapt to accommodate development and growth in the longer term and in response to changing economic, social and environmental circumstances. Linking the Strategic Land Use Plan with the new Island Infrastructure Plan will be key to delivering successful outcomes.

Relationship with other plans and strategies

4.10 In addition to supporting the corporate direction set by the States Strategic Plan, the revised Strategic Land Use Plan needs to take into account other related plans and strategies such as the Road Transport Strategy and the Corporate Housing Programme as well as emerging strategies such as the strategy for older people’s accommodation.

Input from relevant States departments

4.11 In order to develop a comprehensive picture of the policy issues that need to be addressed by the Strategic Land Use Plan, the Strategic Land Planning Group collected baseline data from relevant States departments and consulted them on the initial identification of key issues. Subsequently, relevant departments have provided direct input to inform the Strategic Land Planning Group's consideration of the various policy areas and will be involved in helping to develop policies for the revised Strategic Land Use Plan. The Strategic Land Planning Group is grateful for the staff level input it has received from other States' departments in developing its understanding of the issues.

What are the potential outcomes that the revised Strategic Land Use Plan is intending to achieve?

4.12 In considering the relationship between the economic, social and environmental factors identified by Guernsey Tomorrow, the States Strategic Plan and other relevant plans and strategies, the Strategic Land Planning Group has focused its review on nine potential outcomes. Together these aim to define what the revised land use strategy should achieve. The nine potential outcomes are listed overleaf:

I. SOCIAL AND COMMUNITY i. Socially inclusive and diverse communities and neighbourhoods <ul style="list-style-type: none"> • Deliver housing which meets the island's strategic needs • Deliver 'lifetime' neighbourhoods and homes • Improve facilities/services in urban and 'village' centres • Allow health and social care services to be housed in appropriate accommodation 	II. BUSINESS i. A range of business opportunities for new and innovative enterprises <ul style="list-style-type: none"> • Foster innovation and enable a broad range of economic activities to flourish • Sustain service trades and other employment uses with a low-added value • Support and encourage business start-ups • Safely accommodate and mitigate the impacts of hazardous and bad neighbour industry 	III. ENVIRONMENT i. High quality and accessible physical environment <ul style="list-style-type: none"> • Maintain clean air, water and soils • Improve access to green open space • Improve the quality of urban spaces
ii. A range of training and employment opportunities to match all skills and needs <ul style="list-style-type: none"> • Meet the accommodation needs for education and training 	ii. A globally competitive centre of economic growth <ul style="list-style-type: none"> • Provide an adequate supply of modern office accommodation • Support a high capacity and resilient telecommunications network • Provide modern strategic transport infrastructure (airport and harbours) • Ensure security of liquid fuels supplies • Making the planning process more proportionate and effective • Make better use of the eastern seaboard 	ii. Effective and efficient conservation and use of land and buildings <ul style="list-style-type: none"> • Make the most effective use of developable land • Protection of a managed countryside • Manage the coastal and marine environment • Use resources efficiently and minimise wastage (energy, waste and water)
iii. A safe, secure and accessible environment for all <ul style="list-style-type: none"> • Provide an environment that feels safe • Encourage social interaction and informal places for young people. • Improve accessibility for all 	iii. Sustainable management and wise use of environmental resources <ul style="list-style-type: none"> • Sustain farming and local food production (including fishing) • Switch progressively to clean renewable energy sources 	iii. Protection and enhancement of the natural and built environment <ul style="list-style-type: none"> • Maintain and enhance the island's local distinctiveness • Conservation of the built environment • Protection of natural habitats

5 THE OPTIONS

5.1 The review process described above has led to the identification of three broad strategic planning options to guide land planning policy over the next 15-20 years for consideration and debate by the States. The three options described below cover the full spectrum of spatial planning options generated by people involved in the Guernsey Tomorrow initiative. Following consideration of this report, States members will be invited to assist the Strategic Land Planning Group in the development of a preferred strategy.

OPTION 1: Development concentrated primarily in the urban centres of St Peter Port and St Sampson with some expansion in the outer areas

5.2 This option would see more development and growth focused in and around the two main urban centres of St Peter Port and St Sampson. Only very limited development and change would be allowed to take place elsewhere in the island.

5.3 In order to make the most effective use of infill and redevelopment opportunities, it is likely that this option would involve higher densities and taller buildings than currently exist in parts of the urban area. Competing and conflicting pressures for development opportunities would need to be carefully managed in order to ensure that a mix of uses are accommodated. A good mix of uses and additional residential accommodation could make the urban centres more vibrant, but care would be needed to overcome the potential stresses of urban living.

5.4 This option would potentially concentrate development in areas that are more vulnerable to the adverse events, such as the increased risk of flooding, that climate change is predicted to aggravate. It should be recognised, however, that urban areas will, by their very nature, play a pivotal role in mitigation and adaptation efforts as well, for example by reducing the need to travel.

5.5 The scale of development and change would have a significant impact on the character of the main centres. Careful planning would be needed to ensure that new development would make a positive contribution to the quality of the urban environment especially in terms of public open space and architectural heritage.

5.6 The existing harbour areas, piers, quayside and land reclaimed from the sea would be under pressure to provide major development opportunities and accommodate improved facilities for marine operations. Private sector development could be used to cross-fund investment in strategic infrastructure.

5.7 Modern and innovative forms of new housing would be needed to meet a range of housing needs, including older people's accommodation. By ensuring that new residential development is in close proximity to workplaces, shops, schools etc, car dependency would be potentially reduced, but the social mix of the urban areas could be distorted by the inconvenience of owning a car in town. Strict limits on new residential development elsewhere in the island would mean that people would not necessarily be able to build new homes within their parish of choice.

5.8 Open countryside would be afforded a very high degree of protection. However, the urban fringe would need to be planned to provide recreational opportunities for the urban areas and to accommodate overspill housing or other forms of development that could not be accommodated within the constraints of an urban setting.

5.9 Centralisation of services would allow the most efficient use of infrastructure. Public transport improvements could focus on arterial routes into town with rapid transit links along strategic routes, for example, between the airport and Town and Town and the Bridge.

5.10 The planning system would concentrate its efforts on pro-active urban management and conservation (e.g. town enhancement, improvements to public open spaces, protection of important views, traffic management, land assembly etc). A simplified set of planning policies would apply outside urban areas based on general conservation and development principles/guidance.

OPTION 2: Development focused around a hierarchy of centres ranging from the principal centres of Town and the Bridge down to the main parish and other local centres

5.11 This option would focus development around a hierarchy of centres ranging from Town and the Bridge down to the main parish and other local centres that are supported by a number of community services and facilities. It would also include the opportunity to form new sustainable communities in areas that are currently well served by shops and other community facilities and where there is significant development potential to consolidate and reinforce the formation of a local centre. Therefore, there would be a range of opportunities for development and growth outside the principal urban centres.

5.12 Redevelopment of brown field sites within the core areas of each centre would be prioritised in preference to green field sites. However, some green field sites around each centre would need to be reserved as a land bank to meet identified development requirements. As a result, there would be a loss of some agricultural land and an increased domestication of the countryside; in some cases it will be difficult to define the outer limits of the centre.

5.13 Allowing more development and growth to take place within each of the centres would have a significant impact on their existing character. A community based approach to planning would be required to ensure that development and growth within each centre is compatible with the needs of the area and the aspirations of the local population. The community based approach to planning would need a more collaborative effort and a closer working relationship with the Parishes, residents and businesses. Potential opportunities for environmental enhancement in the centres would be identified in the community based plans, including focal public spaces for people to meet, making the areas more pedestrian friendly, improved access to the countryside and, in the case of coastal centres, improved management and use of the coastal strip. The community based plans could identify shortfalls in the provision of community

facilities (including affordable housing) and set standards for developer contributions. The Parishes and local businesses could play a rôle in gaining political support and funding commitments to meet the costs of planned improvements.

5.14 Diverting some investment and resources away from the principal urban centres and the eastern seaboard might mean that major regeneration opportunities that could fund investment in public infrastructure and environmental improvement may not be realised. Urban enhancement schemes in the principal centres are more likely to be development-led, where major development proposals provide opportunities for such improvements, but as far as possible these would be targeted at improving the environmental quality of local neighbourhoods.

5.15 Links between the centres and other major facilities such as the airport, schools, hospital, and sports venues could be enhanced by a simplified public transport network providing direct connections between each location and by exploiting the potential to link and extend the green lane network between centres.

5.16 The Town and Admiral Park would remain the focus of major new office development where sites have the best access and office employment contributes to the vibrancy of the town centre. However, other employment sites including smaller scale office based businesses might be accommodated around the centres and close to the airport.

OPTION 3: Development spread around the island on any site that meets standard criteria in terms of available services and acceptable impacts

5.17 This option would allow development to take place anywhere in the island provided that the site is suitable for development. Standard criteria would be used to assess the suitability of a site such as the availability of mains drainage, good vehicular access, affect on neighbours and landscape impact.

5.18 Development pressure on existing urban areas and other centres would be relieved. The areas of highest landscape importance, such as the cliff tops would continue to be protected from development. However, the cumulative impacts of developments and the incremental increases in the density of development across the whole island would result in further suburbanisation. The distinction between town and countryside would decrease over time.

5.19 Development proposals could be designed to enhance the character of existing suburban areas but there would be little incentive to invest in urban regeneration, which could lead to gradual deterioration of the Town and its historic character. Diverting investment away from the urban areas would lessen opportunities to help pay for improvements to strategic infrastructure, but reduced competition for space could free-up sites for strategically essential development.

5.20 Sites with least impact would be those in a relatively poor condition, therefore this approach would encourage the redevelopment of derelict sites but could also offer a

premium to landowners for neglecting maintenance. Low impact, low-rise development would mean bigger building footprints and greater land take. More site coverage would increase run-off and the risks of flooding.

5.21 Availability of mains services and other development requirements would tend to favour infilling of ribbon development along arterial routes. Filling the gaps in roadside development would further block views of and obstruct potential access to the countryside.

5.22 Transporting goods and people around the island would involve higher energy usage. Infrastructure networks would need to be extended and upgraded to provide better island-wide capacity. Piecemeal development would result in less efficient use of resources and would be less conducive to the use of renewable energy and sustainable design; though low densities may enable one-off eco-designs on individual sites. Reduced emphasis on urban redevelopment sites would also minimise construction and demolition waste.

5.23 Dispersed development may allow greater flexibility for people to live in their parish of choice. However, the location of new housing development would be developer led and not related to the needs of the locality. Developers would favour the most profitable sites i.e. undeveloped sites and sites in low value use, in the most attractive locations where new homes are likely to command the highest market values. All sites suitable for development would be under pressure from competing uses, forcing existing low value uses onto less and less environmentally acceptable sites.

5.24 The relatively sporadic nature of housing development would be unlikely to achieve 'lifetime neighbourhoods' for an ageing population, as housing would be unrelated to support services and inefficient in terms of care in the home. Schools and other social provision would be decoupled from housing due to the unpredictable distribution of new development. Consolidation of residential areas away from local centres would mean less activity during certain times of the day and less social interaction due to car dependency. Less social activity and a reduced sense of community would tend to discourage informal use of communal areas.

5.25 Increased opportunities for the development of business premises would boost economic diversification. However, incremental development of business premises would lead to creeping commercialisation of the countryside; this would support diversification of farm enterprises and a potential shift away from traditional rural industries such as dairy farming.

5.26 The random distribution of homes, workplaces and other uses would increase car dependency and affect the viability of bus services. Air pollution would be generally more dispersed, but traffic congestion along arterial routes into Town would increase, further reducing air quality in the urban areas. A large number of individual developments spread around the island would add to the number of access and egress points, which would disrupt traffic flows and compromise safety and convenience for other road users.

5.27 The planning system would be reactive, responding to development proposals where and when they arise. Relatively rigid and prescriptive controls would be needed to provide the necessary checks and balances on a site by site basis to resolve potential amenity conflicts, to ensure that individual proposals did not have undesirable consequences and to maintain consistency of decision-making.

6 DEVELOPING A PREFERRED STRATEGY

Engaging with States Members

6.1 The purpose of this report is to stimulate a full and open debate among States members about the possible direction of the revised Strategic Land Use Plan. It is appreciated that there will be various shades of opinion, which may span between different options. It is also appreciated that it will not be possible within the context of this report to fully consider and assimilate all of the nuances and implications of each option and the other possible permutations of options.

6.2 Having considered the options presented in this report, the Strategic Land Planning Group is minded to favour a strategy based on Option 2. Following on from the debate on this report, the Strategic Land Planning Group proposes to hold a series of workshop sessions with small groups of Deputies (10 or 12 at a time) in order to develop a preferred strategy. This will enable members to focus on specific strategic issues and to consider how they might be addressed within a comprehensive spatial planning strategy. It is anticipated that the workshops will be held in late October and through November.

States Report for the revised Strategic Land Use Plan

6.3 The preferred strategy that will be developed with the help of States members will provide the basis for the revised Strategic Land Use Plan. The Strategic Land Planning Group will present the revised Strategic Land Use Plan via the Policy Council for States approval in the early part of 2011. The revised Strategic Land Use Plan will in turn provide strategic guidance and directions for the Environment Department to prepare its Development Plans to replace the current Urban and Rural Area Plans.

6.4 The Strategic Land Planning Group envisages that the Strategic Land Use Plan and the replacement Development Plans that flow from it will follow a very different model from the existing plans. The Plans will be geared toward shaping places to successfully achieve the desired outcomes. There will be less emphasis on regulation and control and more emphasis on facilitation and management. The overarching strategy will need to be responsive to changes in direction signalled by other programmes and strategies such as the Corporate Housing Programme, the Energy Policy and an economic development strategy. The Development Plans will need to provide a spatial planning framework for the whole island, supported by integrated management plans for urban areas (covering, for example, traffic and public open spaces), the countryside (covering, for example, natural habitats and recreation) and coastal zones (covering, for example, sea defences and beaches), with area based action plans designed to deliver positive conservation and development schemes where opportunities are available.

7 RECOMMENDATIONS

7.1 The Policy Council is asked to recommend the States to:

1. Consider the general principles of the policy options under the provisions of paragraph 12(4) of the Rules of Procedure.
2. Note the programme for the preparation of a revised Strategic Land Use Plan, including the involvement of States members in the development of a preferred strategy.
3. Note that the Urban Area Plan (Review 1) and the Rural Area Plan (Review 1) and any alterations and additions thereto approved by the States are effective until July 2012 and December 2015, respectively, subject to extension of that period at any time by resolution of the States and any alterations made either under the Land Planning and Development (Guernsey) Law, 2005.

APPENDIX 1

The Current Members of the Strategic Land Planning Group

Deputy B M Flouquet (Chairman, nominated by the Policy Council)

Deputy M H Dorey (Deputy Chairman, nominated by the Policy Council)

Deputy P L Gillson (Member, Commerce and Employment Department)

Deputy G Guille (Deputy Minister, Housing Department)

Deputy T M Le Pelley (Member, Public Services Department)

Deputy M G O'Hara (Minister, Culture and Leisure Department)

Deputy P R Sirett (Minister, Environment Department)

APPENDIX 2

THE STRATEGIC LAND USE PLAN

THE PURPOSE OF THE STRATEGIC LAND USE PLAN

The Strategic Land Use Plan is formally denoted as the Strategic and Corporate Plan. It has been prepared by the Policy Council in pursuance of Section 2(1) of the Island Development (Amendment) (Guernsey) Law 1990 and is laid before the States in pursuance of Section 2(3) of that Law. It sets out the strategic objectives to be followed by the Environment Department in implementing the Island Development (Guernsey) Laws 1966-90.

The principles upon which the Strategic Land Use Plan is based are set out as part of the Corporate Practices of the States.

The Strategic Land Use Plan (Strategic & Corporate Plan) is a statutory document and, therefore, the current Plan will remain in force until formally revised by the States.

Updated text is underlined for identification purposes. (See Visitor Accommodation, Stone Reserves, Waste Water and Solid Waste policies).

LAND USE STRATEGY

Housing

The Plan indicates the provision to be made to meet the Island's projected housing requirement on a year by year basis, and gives guidance on where new housing should be located. It also recognises the need to improve the quality of people's lives by ensuring good homes in a quality environment. The Plan requires that a range of housing options is available to meet changing requirements and that full and effective use is made of suitable sites.

Strategic Objective 1

To provide adequate opportunities to meet the identified housing requirement, with minimum detrimental impact upon the environment and good design to create a high standard of living and social conditions.

Business & Industry

The aim of this Plan is to facilitate sustainable economic activity. This means providing an appropriate range of opportunities for industry and commerce within the capacity of the Island's resources, and within an overall improvement of environmental quality and social well-being.

Strategic Objective 2

To provide an adequate range of opportunities to meet the needs of existing, Island-based industries and incoming businesses that support the local economy within the capacity of the Island's resources, while conserving and enhancing environmental quality and social well-being.

Commercial Centres

The commercial centres in Guernsey serve an important social and economic function. The Town, in particular, provides jobs in shops, offices and other services as well as being a focus for shopping, social, leisure and cultural facilities. All the centres are important to the quality of life in the Island. The aim for commercial centres and shopping is to maintain and enhance the centres as attractive places to live, work, and enjoy, strengthening the rôle of the Town and the Bridge as the principal shopping and service centres. This means ensuring that everyone has convenient access to a wide choice of shopping, leisure and other facilities.

Strategic Objective 3

To maintain the viability of commercial centres as attractive places in which to live, work and take enjoyment, strengthening the rôle of the Town and the Bridge as the principal centres, while ensuring that everyone has convenient access to a wide choice of shopping, leisure and other facilities.

Strategic Transport links

The strengthening of external transport and other communication links is of strategic importance for the continued development of a sustainable economy. Good passenger and freight transport is essential for business and for permitting access to services. Air and sea links to and from the Island therefore, need to be kept under review and improved where possible. Development will be encouraged which supports existing external transport infrastructure.

Strategic Objective 4

To develop a safe, environmentally friendly and efficient transport infrastructure which serves the needs of local residents, industry and commerce.

Telecommunications Infrastructure

To provide for the installation of communications equipment to support the local economy whilst minimising any adverse impacts on the environment and addressing any appropriate matters relating to public health and safety.

Strategic Objective 5

To support the development of telecommunications infrastructure that delivers economic and social benefits to the local community and minimises adverse impacts on the environment.

Water, Stone and Waste Management

Adequate provision for the sustainable management of water, stone reserves and waste is crucial not only to safeguard reserves but also to retain and enhance a high quality environment, in itself an important economic resource.

Strategic Objective 6

To manage water and stone resources and waste disposal with the aim of minimising the environmental impact and making the most effective use of existing resources and infrastructure.

Social, Community and Recreation

Access to a range of services and facilities is an important aspect of quality of life. Their existence also helps support the local economy and tourism. Recent years have seen a big increase in the demand for social, community, and leisure facilities and this is expected to continue in the future. Sport, entertainment and social facilities will be encouraged where appropriate. Catering for recreation in the countryside without damaging the environment, and developing the potential of the Town and eastern seaboard are also of paramount importance.

Strategic Objective 7

To encourage the provision of opportunities for leisure and the development of community facilities which are easily accessible to all.

Countryside

The quality of the environment affects people who live in the Island, and can deter or attract potential visitors, tourists and investors. The Island has much to conserve in its rural and urban environments, but it also has poor and degraded environments, which need improvement and enhancement. This Plan contains policies and proposals to reconcile and manage potentially conflicting demands on the countryside.

Strategic Objective 8

To conserve and enhance the countryside, including maintaining and improving biodiversity by protecting and enhancing habitats.

Built Environment and Cultural Heritage

Maintaining the quality of the built environment and safeguarding Guernsey's cultural heritage is important to the attractiveness and local distinctiveness of the island and indirectly, to its economic success.

Strategic Objective 9

To conserve and enhance the built environment and safeguard the cultural heritage.

THE STRATEGIC POLICIES

THE HOUSING REQUIREMENT

In 2002, the first Housing Needs Survey was reported to the States by the former Housing Authority.

The survey report examined a number of options for setting a new strategic target for the provision of additional homes but the States agreed with the Housing Authority's recommendation that a target of providing for 300 new homes should be adopted on an interim basis.

The figure of 300 homes substantially exceeded the minimum of 179 homes needed to satisfy the net annual shortfall in housing units identified by the Needs Survey. It was intended to provide for a sufficient 'surplus' to cater for the needs of a backlog of potential new householders wanting to obtain independent accommodation and to provide some spare capacity in the system to enable a better 'fit' between the size and type of housing people want and the accommodation that is available. This remains the current planning target.

A further Housing Needs Survey is to be completed during 2006 in order to provide updated information to guide the implementation of the Corporate Housing Programme.

The effectiveness of the planning system in meeting the current strategic target has been monitored on a quarterly basis with an annual review by the former IDC and now by the Environment Department. Although the monitoring process is imperfect and time consuming it has shown that land supply (the availability of land with planning permission for housing) has consistently exceeded the target set.

Strategic Policy 1

Arrangements will be put in place through the Detailed Development Plans to ensure that provision is effectively made to meet the annual requirement for the creation of new homes as established through regular Housing Needs Surveys and reviewed through the Strategic Land Use Plan.

The above policy provides guidance for the preparation of Development Plans and the provision of infrastructure. It relates to the strategic land use planning aspect of States policies for housing but cannot, in itself, ensure the carrying out of development.

In the past a variety of information about the development of new homes has been gathered in different ways and for different purposes by States Departments. The 2004 Sustainable Guernsey monitoring report introduced the schedule of data which is required in order to monitor and inform the CHP effectively. This schedule was subsequently agreed by the States, and became the focus of the working group set up to establish a comprehensive monitoring system. This working group, which has developed the necessary commitment to cross-departmental data sharing, comprises staff from the Policy Council, the Treasury & Resources, Environment and Housing Departments.

Since then, the Policy Council (Policy and Research Unit) has researched the availability of data required to monitor each of the key variables (as set out in the Sustainable Guernsey Report 2004). Action to progress this work is continuing.

This corporate approach is becoming increasingly important as use is made of Housing Needs Surveys to direct policy towards achieving a closer alignment between demand and supply in the housing market. This will increasingly take into account both housing types and affordability. Any shortfall between the effective provision of opportunities for housing development and the level of implementation will also need to be addressed on a corporate basis.

Strategic Policy 2

The fulfillment of the annual housing requirement as set out in Strategic Policy 1 will be monitored by States Departments in accordance with the objectives of the Corporate Housing Programme.

Location of Development

In accordance with the Strategic Objectives of this Plan, it is intended to achieve as much new housing as practical and possible within the existing urban areas and on previously developed land, in order to minimise the amount of development which needs to take place on open and undeveloped sites.

Strategic Policy 3

The majority of this provision should be within the Urban Area

In order to encourage regeneration of the existing urban areas and to direct development towards previously developed land it is essential to control the release of new open and undeveloped land. Housing Target Areas may be identified in the Urban Area Plan but these should only be released for development when the States are satisfied that there are no reasonable options available for development within the existing built-up areas.

In order to meet the principles of sustainable development, any new Housing Target Areas should conform to a number of general criteria. These include:

- Sites should be well related to the existing pattern of development, with access to local facilities.
- Sites should be capable of being served by good public transport as an alternative to the private car.
- There should be no detrimental effect on important landscape, conservation, wildlife or other environmental concerns.
- Appropriate infrastructure can be provided in a sustainable manner.

Strategic Policy 4

Greenfield sites may be allocated as Housing Target Areas but land allocated as such will only be released for development if it can be demonstrated that there is a clear need for additional greenfield development in order to fulfil the requirement set out in Strategic Policy 1. The release of such land should be phased to give firm priority to potentially suitable or available land within built-up areas.

Making the best use of sites in urban areas

The spread of housing development across the countryside is one of the most potent symbols of perceived environmental damage. Although to meet the anticipated household growth some greenfield land will need to be developed it will be a priority to seek to achieve as much new housing development within the existing built-up areas as possible. It is important that opportunities are taken to re-use previously developed sites and the potential to convert and re-use derelict or vacant buildings should be thoroughly explored.

Land within the urban areas is likely to have, or be capable of being provided with good public transport links, and good links to footpath and cycleway networks, all of which are important to encourage less use of the private car.

To reduce the land-take impact of new development an economical use of limited land resources is desirable. One way to maximise the number of dwellings that can be accommodated within existing urban areas is to design housing schemes to achieve the highest number of dwellings on a site without detriment to the quality of urban life.

Strategic Policy 5

Housing development should be of a type and design to achieve as high a density as compatible with achieving good standards of accommodation and residential amenity, particularly in areas well served by public transport and other services and facilities. The density of housing should take account of:

- **The trends in the size of households, particularly towards smaller households.**
- **The need for good design.**
- **The need for mixed use in appropriate locations.**
- **The provision of open space and landscaping.**
- **The reduced need for parking provision and road space.**

Meeting the need for Social Housing and Intermediate Market Housing

Intermediate Market Housing is intended to meet the needs of people who for financial reasons are unable to compete for accommodation in the general housing market and it includes a range of housing provided by the Guernsey Housing Association including partial-ownership schemes.

Where appropriate and taking into account the information provided by Housing Need Survey(s), the States will, through the Corporate Housing Programme, identify levels of housing need, indicate overall targets for the provision of Social and Intermediate Market Housing, and determine specific requirements for development.

The pursuit of these forms of housing should not result in housing that is of poor standard or offers inadequate amenities and does not mean housing of poor quality or design. This is becoming an increasingly significant issue as the focus shifts to higher density schemes in the Urban Area. Low standards of amenity and a lack of parking may have undesirable environmental and social consequences for the Town that could undermine its attractiveness as a place to live.

Although the majority of Social and Intermediate Market Housing should be directed towards the Urban Area in accordance with Strategic Policy 3, provision may be made for a limited amount of such housing to be developed in the Rural Area either directly by the States through the Housing Authority or indirectly through a Housing Association. Such provision should not be of a scale or in a location that would compromise the conservation and enhancement of the rural environment.

Strategic Policy 6

Detailed Development Plans will include policies to facilitate the provision of social housing and housing to serve the Intermediate Market where the need is identified. Such housing should be well designed, of a size which matches household size, with adequate standards of amenity.

Strategic Policy 6(A)

Notwithstanding Strategic Policy 3, Detailed Development Plans for the Rural Area may, as an exception, provide for the development of a limited amount of subsidised housing to meet the need for Social and Intermediate Market Housing.

Buildings suitable for re-use as housing

A significant amount of surplus accommodation exists which is of a lower standard and is no longer economically viable for its former use.

Strategic Policy 7

Encouragement will be given to the re-use of surplus commercial accommodation for housing purposes. This will enable its conversion and subsequent sale or rent as sheltered accommodation, residential or nursing homes and staff hostels. In the case of tourist accommodation, re-use for housing purposes may be encouraged where this is compatible with Strategic Policy 20.

Special needs including sheltered housing

Housing quality and the ability to gain access to housing are key elements of meeting the strategic objectives and housing needs of people. The importance of housing which meets the needs of all sectors of society in contributing to the overall well-being and sustainable development of balanced communities is recognised. Two aspects are particularly important – affordability and the ability to accommodate a range of housing needs for all members of the community, including elderly people and those with disabilities.

The second aspect is particularly important to meet the existing and changing needs of all members of the community, including those of the ageing population. It is already known, for example, that there is under-provision of sheltered housing for the elderly. Measures have already been taken to facilitate the development of such housing, but further research and analysis will be required to determine the extent of such provision and to devise suitable mechanisms for ensuring that sheltered housing is accessible to those who need it. To ensure such housing is capable of meeting the changing needs of households the quality of design is crucial. The siting of this housing on flat ground, close to shops, other amenities and public transport links is also particularly important.

In this respect, the development of a limited amount of sheltered housing on suitable sites well-related to the Rural Centres as well as development in the Urban Area may help to meet rising demand. If it is necessary to amend the Rural Area Plan to facilitate such development, the Environment Department may be asked to bring forward amendments ahead of the regular review cycle.

Strategic Policy 8

A wide mix of housing which reflects housing needs should be encouraged, including homes for families and small households; housing for elderly households and other households with special needs; and provision for people requiring community care.

Strategic Policy 8(A)

Notwithstanding Strategic Policy 3, Detailed Development Plans for the Rural Area shall, as an exception, provide for the development of a limited amount of sheltered housing for older people and those with disabilities on suitable sites well related to the Rural Centres.

Improving the existing housing stock

With respect to the existing housing stock, it is evident that a significant proportion of private rented accommodation, some new conversions and some purpose-built accommodation, particularly in St Peter Port, is also of poor standard and lacks amenity space.

In most cases it is better to make good use of the existing housing stock than to have large-scale clearance and redevelopment. However, adequate resources should be made available to tackle under-investment, and improve and renovate the existing housing stock.

Proposals to bring empty houses back into use should be supported. The available range of regulatory mechanisms – development control, building control and the preservation of heritage value – should be used to ensure that new development, and the redevelopment of run-down and derelict accommodation, is of adequate standard.

It is essential that improvements in the housing stock are accompanied by environmental and infrastructure improvements in order to improve the quality of life for local residents and ensure that the full potential of the housing stock is realised. A comprehensive programme of environmental, traffic and social improvements is required to ensure that the Town continues to be an attractive and desirable place to live in.

Strategic Policy 9

Priority should be given to making better use of the existing housing stock. In particular, proposals will be supported which:

- **Maintain and improve existing houses to a high standard.**
- **Bring empty houses back into use.**

- **Reduce under-occupation.**
- **Ensure that the environment of housing areas is of a good quality.**

BUSINESS & INDUSTRY

Office development

The redevelopment of the Gategny Esplanade and Le Bouet Mixed Use Redevelopment Areas has substantially increased the stock of new office accommodation in the Island catering particularly for the needs of the Finance Industry. The commercial office market is now in the process of adjusting to this situation as lower value business uses, including other office activities, move to premises in Town that have been vacated. The ageing office stock of the Town also provides opportunities for other uses, for example, housing.

Except where there are existing planning commitments (e.g. the approved Outline Planning Briefs for the MURAs), further major office development is unlikely to take place in the short term.

Strategic Policy 10

The refurbishment and re-use of the existing office stock in Town should be encouraged. Provision for further, major office development should be only made within the Urban Area if it can be demonstrated that there is an acknowledged demand for such accommodation and that it would help to deliver wider economic, social and environmental benefits.

Industrial land supply

An adequate supply of land and accommodation to meet the diverse needs of business and industry is vital to the creation of a sustainable economy.

During 2005, the Commerce & Employment Department undertook a major survey of local businesses to establish whether a lack of suitable premises was constraining their development.

This Business Needs Survey indicated that some firms were being hampered by a lack of suitable accommodation although this was not the sole area of concern.

The Commerce & Employment and Environment Departments are working together under the auspices of the Strategic Land Planning Group (SLPG) to maximise the supply of industrial land within the terms of existing Development Plan policies. If this process substantiates the case that there is a significant shortfall to be addressed that cannot reasonably await the next comprehensive review of the Urban Area Plan, the SLPG may request that an early plan amendment is brought forward.

In addition to meeting the needs of existing businesses, the Business Environment Theme of the Corporate Agenda identifies the development of a 'commercial property land bank' as a specific objective to be pursued.

Much further work needs to be done, however, to determine the scale and form of land bank that should be set aside and the sorts of businesses it should be used to accommodate.

The SLPG considers that this research work by the Commerce & Employment Department should form part of the preparation for the next comprehensive review of the Urban Area Plan that is currently scheduled for publication in 2007.

It is anticipated, at this stage, that specific areas of land will be designated as 'Strategic Industrial Reserves' and that these will provide a similar mechanism to the existing Housing Target Areas (HTAs). As with the HTAs, development would require the preparation of an Outline Planning Brief and a minor Planning Inquiry.

Strategic Policy 11

The Detailed Development Plans shall make provision for the designation of Strategic Industrial Reserves as a commercial property land bank to support the objectives of the Corporate Agenda.

Competition for land

Business and industrial uses are highly diverse, have very different accommodation needs and vary greatly in their ability to compete in the commercial land market.

Understandably, high value uses generating large profits tend to squeeze out lower value uses even though those uses may be just as valuable to the overall well-being of the community.

Currently, the ability to ring fence sites for particular purposes and to prevent 'creeping' changes of use up the value chain is limited. Revised Use Class designations and the future introduction of Planning Covenants/Agreements may assist effective regulation but these devices are not a panacea.

The Commerce & Employment and Environment Departments will continue to work together under the auspices of the SLPG to find more effective ways to ensure that the land and accommodation needs of all legitimate business sectors are met.

Strategic Policy 12

Detailed Development Plan policies to maintain an adequate supply of land and accommodation for business and industrial uses that would otherwise be disadvantaged in the commercial property market by competition with higher value activities, will be supported.

Contemporary business trends

The contemporary nature of business is that the traditional distinctions between offices/service uses and light industry have been eroded. Uses that cross these traditional boundaries include data processing, software development, telemarketing, research and development, information technology etc.

The supply of land and accommodation for business and industry needs to respond to the changing nature of demand so that innovation and entrepreneurship are encouraged.

Strategic Policy 13

The Detailed Development Plans shall make provision for a comprehensive range of accommodation to meet the needs of manufacturing and service employers.

Monitoring and review

Although specific targets for industrial land supply are yet to be established pending further research, a successful new approach towards supporting sustainable economic development clearly requires a process of regular monitoring and review.

Strategic Policy 14

As the supply of land necessary to meet business and industrial needs is defined as a result of ongoing research, the effective availability and take-up of that land will be monitored by States Departments as part of the Strategic Land Planning process.

Location of development

In accordance with the Strategic Objectives of this Plan and bearing in mind that the implementation of the Corporate Agenda requires that the objectives of the Key Theme for the Business Environment should be integrated with those for the Natural & Built Environments, it is intended that the majority of business and industrial development should be accommodated in the Urban Area and where possible, on previously developed land.

There are, however, businesses that have good and justifiable reasons, in terms of their particular characteristics, for operating in the Rural Area. In making provision for such businesses it is nonetheless important the primary objective of conserving and enhancing the rural environment is not undermined.

If it is reliably established through further research undertaken by States Departments that there is a legitimate case for increasing the development opportunities for such businesses in the Rural Area, the SLPG may request that an early amendment to enable this is brought forward ahead of the next comprehensive review of the Rural Area Plan.

Strategic Policy 15

The majority of development for business and industrial purposes shall be accommodated within the Urban Area. Provision may, however, be made in the Rural Area for businesses that can substantiate a good and justifiable case for such a location provided that the primary objective of conserving and enhancing the rural environment is not undermined.

Horticulture

With notable exceptions, the horticultural industry is contracting and significant areas of glass remain uncropped. In terms of the overall area under glass, therefore, there remains no requirement to make provision for any net or overall increase in the area of land which may be used for horticulture. In order to permit the continued rationalisation of land holdings, however, development or redevelopment on existing holdings will be permitted in those cases where the Environment Department and the Commerce & Employment Department jointly recognise that greenhouse or related horticultural development will make a valuable and needed contribution to the industry and is likely to continue to do so for the foreseeable future, by virtue of the site's suitability for commercial operations.

In association with this process of rationalisation, there may be justification to protect high quality horticultural land from alternative forms of development.

Strategic Policy 16

In order to permit the continued rationalisation of land, development or redevelopment on or adjacent to existing holdings may be permitted in those cases where the Environment Department and the Commerce & Employment Department jointly recognise that greenhouse or ancillary horticultural development will make a valuable and needed contribution to the industry and is likely to continue to do so for the foreseeable future, by virtue of the site's suitability for commercial operations. In addition, Detailed Development Plans may seek to protect high quality horticultural land from alternative forms of development where this would assist the process of rationalisation.

Land reclamation areas

The Strategic Land Use Plan supports the rôle of the ports and accepts the need to identify land for future port use and development by port related industry. Existing reclamation areas and future expansion at St Sampson's Harbour will be concentrated on upgrading infrastructure in order to cater for the anticipated growth in future traffic flows.

The aim is to preserve the land reclamation areas at St Sampson's for those activities that will benefit from the unique location. Such activities include those with a high environmental impact and which are of strategic importance.

Strategic Policy 17

Priority should be given to port related industrial development and activities with a high environmental impact in existing and future land reclamation areas at St Sampson's Harbour.

Development requiring an airport location

The Plan encourages the future development of the Airport but only by businesses and industries that require an airport location. The land surrounding the Airport is by definition, scarce and in a rural area of the Island. A range of other industrial locations will be identified for other companies that do not require an airport location.

The Environment Department will identify those types of 'airport related' uses which are acceptable in the Detailed Development Plan.

Strategic Policy 18

In reviewing the Rural Area Plan, consideration may be given to provision for development requiring accommodation at or adjacent to the Airport.

The Visitor Economy

Visitor attractions and facilities

The Visitor Economy continues to make a significant contribution to the local economy as a whole. It adds to the attractiveness of Guernsey as a place to live as well as to visit through a wide range of leisure and hospitality businesses.

The strategic land use policies that aim to protect and enhance the quality of the natural and built environment and to preserve Guernsey's cultural heritage also sustain the appeal of the Island as a tourist destination.

Specific attractions and facilities are only part of this overall picture and some existing businesses lack the level of investment required to meet rising visitor expectations.

This plan supports investment to provide good quality facilities and attractions provided that, in the Rural Area in particular, the objective of conserving and enhancing the natural and built environments is not undermined.

Strategic Policy 19

Provision may be made for tourist-related developments provided that policies supporting the conservation and enhancement of the natural and built environments are not undermined.

Visitor accommodation

The viability of tourism depends, amongst other things, on the maintenance of sufficient, good quality visitor accommodation to meet demand and to sustain the standard and frequency of air and sea links to the Island which are also essential to the economic and social well-being of the community as a whole.

Strategic policy was revised in December 2006 to enable a more targeted release of poorer quality and less profitable accommodation from the sector so that an average annual room occupancy level for the serviced accommodation sector of 65% (based on year round occupancy) and for self-catering accommodation of 75% (based on seasonal occupancy) can be achieved.

The Urban and Rural Area Plans have since been amended following a Planning Inquiry to take account of this new policy as set out below.

Strategic Policy 20

The Detailed Development Plans will include policies to ensure that an adequate stock of visitor accommodation is maintained to support the future viability of tourism. Such policies should take into account the need to respond to a definition of adequacy that will change over time in response to changes in the visitor economy.

ATTRACTIVE CENTRES OF ACTIVITY

There is increasingly a requirement to focus attention upon the main town centre of St Peter Port to reinforce its Island rôle in ways that enhance its unique character, and to ensure that development elsewhere does not dilute that rôle or further reduce its vitality and viability.

Both the town centre of St Peter Port and the Bridge are focal points for a range of community, leisure, and commercial activity. The Town contains significant elements of built heritage in terms of both individual listed buildings and conservation areas. Focusing demand for services toward these centres will ensure continuing investment in the urban fabric.

The Town is facing rising pressures on the historic physical fabric, excessive traffic and the displacement of traditional local shops, which are an important element in its character. These pressures need to be managed in order to reduce traffic congestion, conserve the historic character and mix of shopping and other activities while attracting necessary investment in maintaining the physical fabric, and up-dating the facilities and general amenity of the Town.

A public/private sector 'Town Centre Partnership' has been formed to co-ordinate a multi-agency approach involving The Chamber of Commerce, The St Peter Port Traders, The Douzaine, States Departments and other key interests to address these concerns in a co-operative and innovative way.

The Environment Department will seek to maintain and enhance the attractiveness of the Town with appropriate policies incorporated into Detailed Development Plans or other corporate policy documents and possibly by way of public/private sector initiatives.

Strategic Policy 21

The States will seek to instigate measures and support projects for the Town and the Bridge that:

- **Encourage a wide range of retail, commercial, leisure, business, culture and arts facilities and residential uses.**
- **Promote the re-use of vacant buildings.**
- **Retain and increase residential accommodation.**
- **Promote environmental improvement.**
- **Safeguard the historic character.**
- **Improve pedestrian and cycle access, improve public transport links and provide for appropriate levels of car parking.**

Implementation of this policy will involve a combination of strict control over the scale and nature of any new development to secure the conservation of the historic built environment, and safeguard the diversity of activity; and/or action by the States, in conjunction with other agencies, including local residents and traders, to secure improvements to the shopping environment.

Local centres

The provision of local shops and services is important in providing for local needs and reducing the need to travel. Facilities which are readily accessible by walking, cycling and public transport and which provide for day-to-day needs make an important contribution to the overall sustainable development strategy of the Plan. It is important that local facilities are of a scale that is consistent with the function and character of the local centre so as to meet local needs.

Strategic Policy 22

The retention and improvement of local shopping facilities and services may be supported, provided that the development is of a scale consistent with the function and character of the local centre.

Large scale retail developments

Although the plan is aiming to direct development to the existing centres, there may be circumstances where retail development may be acceptable elsewhere. It should be

possible in many cases to locate these types of development in the allocated areas at Le Bouet and at Leale's Yard, or in other appropriate edge of centre locations. If there are no such sites available, and there is an acknowledged demand for the development concerned, then other suitable sites may be considered.

In advance of the adoption of a comprehensive retail strategy, the States agreed (Billet d'Etat, IV 2002) that certain garden retail operations will be permitted within the rural areas of the Island subject to specific controls through the planning system and additional regulatory powers to be exercised by the Commerce & Employment Department. This will involve the prior introduction of new legislation.

The Commerce & Employment Department is not giving priority to the preparation of a retail strategy at the present time.

Strategic Policy 23

Where there is an acknowledged demand which can reasonably be provided within the Island for retail developments outside the centres of St Peter Port and St Sampson additional provision may be made provided that the vitality and viability of any commercial centre would not be undermined and the local environment would be improved. The Detailed Development Plans may include policies to regulate the establishment of such uses including garden retail operations.

EXTERNAL TRANSPORT LINKS

Harbours

Ports and harbours fulfill an important rôle in the economy. This has already been recognised by policy towards land reclamation at Longue Hougue. St Sampson's is the main strategic port offering opportunities for further growth, both in terms of trade and development land, and should be safeguarded against inappropriate development.

Similarly, port-related development should not be constrained by the inappropriate use of land immediately adjacent to the port areas and Detailed Development Plans should reflect this accordingly. These matters can best be addressed in the context of a wider, Waterfront Strategy.

Strategic Policy 24

A strategy for the future rôles and development of the Harbours should be prepared as part of a wider corporate strategy for the eastern seaboard/waterfront to be incorporated as part of the review of the Urban Area Plan.

Airport

Guernsey Airport is a major asset for the future of the Island's economy. This is recognised in part by Policy SP18. However, any expansion of airport-related facilities at Guernsey Airport will impact upon the local environment. Any future development or operational changes, therefore, requires careful consideration and, within the context

of an overall strategy, should be related to specific demands, and the prospects for growth at the Airport, as well as to the development of unused land both within the Airport itself and in the surrounding area. As other forms of development in the vicinity of the Airport may constrain future operational improvements, safeguarding restrictions may be imposed where a justifiable case for doing so can be substantiated.

Strategic Policy 25

The provision of airport-related facilities for Guernsey Airport may be supported, provided that adequate measures are taken to mitigate any harmful environmental consequences of the Airport's operation. The Detailed Development Plans may constrain other forms of development in the vicinity of the Airport where this is necessary to enable future operational improvements.

TELECOMMUNICATIONS INFRASTRUCTURE

As operations compete to provide a wide range of telecommunications services to domestic and business users, there is potential for the proliferation of stations, masts and other installations to occur which could have a damaging cumulative effect on the environment.

It is important that a planning framework is put in place to ensure that the Island enjoys quality and choice in its telecommunications services whilst minimising any adverse visual impacts. This may require operators to share sites and masts where this is justified in terms of limiting the visual impact on the locality and where there are no insuperable technical obstacles to doing so.

Considerations relating to public health and safety may be taken into account within the terms of the Island Development Law but it is recognised that the Environment Department will require expert advice from other agencies and the Health and Social Services Department in particular, in dealing with this issue. Where public health and safety are primary considerations these are more appropriately addressed through Environmental Health controls.

Strategic Policy 26

The Detailed Development Plans may include provision for the development of telecommunications infrastructure and equipment taking into account the need to minimise any adverse visual impacts on the environment.

THE SUSTAINABLE MANAGEMENT OF WATER, STONE RESERVES AND WASTE

Water resources

In 1992, the former Water Board established the following principles for the management of water resources:

- Increasing the water catchment to practical economic limits.
- Increasing the water storage capacity.
- Development of the abstraction and transfer infrastructure to provide a comprehensive raw water grid linking 21 stream sources to 15 reservoirs and 3 treatment works.
- A water conservation and leak reduction programme.
- Improvements in stream water quality, by reducing nutrient pollution from agriculture and horticulture.
- Researching the availability of the groundwater supplies.

The Public Services Department took over responsibility for water management in 2004.

Although rainfall records show that the probability of a prolonged period of low rainfall is small, there is statistical evidence of climatic change towards lower rainfall with anecdotal evidence that fluctuations in weather conditions are becoming more extreme.

If rainfall is lower and less reliable, there is an increasing risk that a prolonged and serious drought could occur.

The current contingency plan to deal with this risk would require an area of land on which a desalination plant could be constructed within a maximum of 12 months.

Subject to approval of such a plan by the States, and provided the site and construction plans were readied in advance, the plant itself would not be constructed until made necessary by the onset of a severe drought which could otherwise exhaust the available reserves of water in storage.

Strategic Policy 27

In order to conserve potable water resources, the efficient use and re-use of all available sources of water should be maximised.

“In accordance with a States Resolution in 1994 following the Policy Council’s review of strategy for the ‘Future of Solid Waste, Water and Stone Reserves in Guernsey’ (Billet d’Etat XX, 1994), the Policy Council formed a Steering Group to carry out a further strategic review during 2006.

The Policy Council’s findings, as set out in Billet d’Etat XV, 2006, identified future water storage as the key driver of a co-ordinated strategy. The report recommended that

Les Vardes Quarry should be identified as a strategic asset for future freshwater storage particularly given the uncertainties of water supply in the context of concerns about global warming and climate change.

The report, which also referred to associated policies for extending the potential area for stone quarrying at Les Vardes (see ‘Stone Resources’ below), was endorsed by the States in September 2006. The Policy Council considers that the Rural Area Plan should be amended to take account of this States decision at the earliest practicable date including reference to the quarry as a strategic water storage asset on the Proposals Map. This will require a minor Planning Inquiry.

Strategic Policy 27(A)

The Detailed Development Plans shall identify and safeguard Les Vardes Quarry as a strategic asset for freshwater storage once quarrying activities there cease.”

Surface water drainage

The St Sampson’s Marais catchment forms a major part of the surface water drainage system of the Urban Area, and is of immediate interest in relation to the development of the Belgrave Vinery site. In effect, the St Sampson’s Marais represents 20% of the Island’s water catchment and steps need to be taken to ensure that the amount of water directed to the public supply from this catchment is protected and, if possible, enhanced.

In this regard the States will promote a policy of Sustainable Urban Drainage, by the incorporation of Best Management Practices acceptable to the relevant authorities, with a view to dealing with runoff from the projected developments, preventing the flooding of these and other developments, and maximising the quantities of water recovered for the public supply.

Strategic Policy 28

The effect of development on the aquatic environment shall be managed by the use of Sustainable Urban Drainage Systems, incorporating Best Management Practices at appropriate developments.

Flood management

It will be necessary for the risk of flooding in all low-lying land within the Urban Area Plan to be carefully assessed against a range of flood events so that preventative measures may be adopted, where necessary. A further concern is the possible rise in sea levels resulting from climatic changes. While estimates vary as to the timescale during which this might occur, it is clear that additional coastal protection measures may well be necessary in due course and priorities might need to be reassessed in some areas.

This makes flooding events increasingly difficult to predict and reinforces the need for a precautionary approach.

Notwithstanding the above, there must be an element of risk tolerance in flood management especially in the Urban Area. The nature of the risk in any given circumstance must be weighed against competing economic, employment, social, environmental or recreation benefits that might accrue. There may be instances therefore, where the planning benefits of placing buildings or services in vulnerable locations may outweigh the risks from flooding.

Strategic Policy 29

The risk of flooding of all low-lying areas shall be carefully assessed and taken into account in planning for new development.

Waste water

Following consideration of the Waste Strategy Assessment presented in Billet d'Etat XI, 1997 and subsequent investigations as described in Billet d'Etat XI, 1999, the States resolved to commence progress towards implementation of sewage treatment. The basis of this decision was that the long sea outfall does not comply with EU standards for the level of sewage treatment, even though EU Standards for quality of bathing waters are satisfied. The Waste Strategy Assessment found that the most significant liquid waste pollution arises from inland sources and their effect upon the water catchment. Provision of sewage treatment would therefore offer minimal environmental benefits, compared with other liquid waste management priorities.

In view of the above, the former Advisory and Finance Committee and Public Thoroughfares Committee agreed an action plan that involved monitoring the discharge effects of the Belgrave Bay outfall; maintaining a watching brief on technological developments and investigating the possibility of low cost measures to deal with effluent discharges from Fort George, Creux Mahie and Herm and to upgrade the existing headworks and preliminary treatment facility at Belgrave.

In 2004 political responsibility for sewage disposal services passed to the Public Services Department with the Environment Department taking overall responsibility for environmental policy. A joint report in the form of a Green Paper on sewerage and waste water treatment was noted by the States in January 2006 [Billet d'Etat I]. A further report is being prepared for presentation to the States in autumn 2007. Strategic Policy 27 remains unchanged pending the outcome of this report.

Strategic Policy 30

The identification of sites for sewage treatment works may be incorporated into the relevant Detailed Development Plans and technical assessments of methods of sewage treatment shall be taken into account in the identification of those sites.

Stone Resources

The findings of the Policy Council's review of strategy for the 'Future of Solid Waste,

Water and Stone Reserves in Guernsey' (Billet d'Etat XV, 2006) were endorsed by the States in September 2006.

The review report stated that Les Vardes Quarry is the only operational hard rock quarry on the island and that, at the current rate of extraction, the existing quarry will be worked out by 2015.

Previous Strategic Policy 30(S) (below) has enabled the Detailed Development Plans to protect known reserves of stone at Chouet Headland and Les Vardes from development that would compromise extraction. This policy does not, however, enable planning applications to be made to create new quarries or extend existing ones.

In supporting the Policy Council's report, the States have recognised that extending the existing quarry would not prejudice the long-term future use of Les Vardes Quarry as a freshwater reservoir. Further stone extraction would actually increase water storage capacity.

Strategic policy was revised in December 2006 to enable the Environment Department to consider applications to quarry the protected stone reserves lying to the west of the existing quarry following an amendment to the Rural Area Plan at the earliest practicable date. This will require a minor Planning Inquiry (as will the associated change to Water Resource Policy designating Les Vardes as a strategic water storage asset).

Strategic Policy 30(S)

Provision may be made in the Detailed Development Plans to protect those areas where there are known reserves of stone from development that would compromise future extraction.

Strategic Policy 30 (S.Ext)

Provision may be made in the Detailed Development Plan covering the area to the west of the existing quarry at Les Vardes to enable permission to be sought in appropriate circumstances for the extraction of stone reserves taking into account the area's status as a strategic asset for future freshwater storage once quarrying has ceased.

Solid waste

Following consideration of the options and policies for the disposal of solid waste, a Solid Waste Strategy was adopted by the States in 1998 (Billet d'Etat XII).

The Strategy was founded on the assessment that Les Vardes Quarry was unsuitable for the disposal by landfill of putrescible waste and that the principal means of disposal of solid waste should be through a Waste-to-Energy plant.

A Solid Waste Working Party was set up to implement the States Resolutions led by the Board of Administration. The Board commissioned an Environmental Impact Assessment (E.I.A.) of suitable sites for the location of an integrated waste management facility including an energy from waste facility, materials recovery facility, scrap metal yard and civic amenity site. This E.I.A. concluded that with appropriate standards and mitigation measures an integrated waste management facility could be located at Longue Hougue land reclamation site.

The direction to the former Island Development Committee to identify appropriately located sites for the collection, sorting, transfer and recycling of solid wastes and to examine the merits of co-locating such facilities alongside the energy from waste facility was investigated through the E.I.A. process. This E.I.A. process concluded that with the exception of a possible second civic amenity site located to serve the west of the Island, waste sorting and transfer facilities should be located alongside the energy from waste facility.

An Amendment to the Urban Area Plan and associated Outline Planning Brief (OPB) to enable Longue Hougue to be developed for waste management purposes received the support of the independent Planning Inspector following a public, Planning Inquiry in December 2001. The Amendment and OPB were subsequently approved by the States in April 2002.

In June 2004, the States resolved to appoint an Independent Panel of Inquiry to review the future of solid waste disposal in Guernsey. The findings of the panel were made public in January 2005. The Panel concluded that Guernsey should not proceed with the contract for the proposed energy from waste plant at Longue Hougue.

In May 2005, the States initiated a comprehensive review of the Solid Waste Strategy adopted in 1998, including a worldwide search for alternative waste treatment solutions.

In November 2005, the States confirmed the previous strategy for disposal of inert waste by land reclamation at Longue Hougue.

In February 2006, the States considered and rejected working with Jersey to provide a new waste incineration facility to serve the Channel Islands.

In July 2006, the States considered and rejected export of putrescible waste as an interim measure.

The general provisions of the Environmental Pollution [Guernsey] Law, 2004 came into force on 26 July 2006 including provisions for regulation of solid waste operations and designation of The Public Services Department as Waste Disposal Authority with responsibility for implementing a statutory Waste Disposal Plan.

In February 2007, the States approved an interim Waste Disposal Plan with a target for recycling 50% of all commercial and household waste by 2010. The States specifically directed provision of facilities, at the appropriate opportunity, for:

- Dry Materials Recovery;
- Mixed Waste Materials Recovery;
- In vessel composting;
- Civic amenity sites;
- Scrap metal.

The States also agreed to seek tenders for the design, build and operation of:

- EITHER a Mass Burn Energy from Waste Plant;
- OR a Mechanical Biological Treatment Plant coupled to an Energy from Waste Plant, which facility may be a Mass Burn or Advanced Thermal Treatment Plant;
- INCLUDING consideration of modular development options for such facilities and any combination of Mechanical Heat Treatment, Mechanical Biological Treatment and Advanced Thermal Treatment.

The capacity of treatment plant to be procured remains subject to further consideration by the States.

Pending the approval of proposals for the Island's long-term waste management facilities, temporary waste management infrastructure can be accommodated at Longue Hougue in accordance with the provisions of the approved Outline Planning Brief (Billet d'Etat V, 2002).

Strategic Policy 31

The development of the approved site at Longue Hougue, St Sampson's for an integrated waste management facility will be implemented in accordance with the principles of the Solid Waste Strategy, strategic policy for the environment and revised environmental health legislation. In reviewing the Detailed Development Plans, the Environment Department will make provision for those waste facilities identified in the Waste Disposal Plan as adopted by the States.

Strategic Policy 31(A)

In the interim, proposals for temporary waste management infrastructure will be accommodated at Longue Hougue in accordance with the provisions of the approved Outline Planning Brief (Billet d'Etat V, 2002).

ACCESSIBLE SOCIAL, RECREATION & COMMUNITY FACILITIES

There is already considerable use of education facilities such as playing fields, swimming pools, the assembly halls and classrooms by members of the local community outside of school hours. There is further scope for the use of education facilities though not all schools are suitable. When new schools are built, this provides an opportunity to include additional facilities, which can be used by schoolchildren and the public.

Strategic Policy 32

Measures designed to make maximum use of existing facilities may be supported, with particular emphasis on the joint provision and dual use of education facilities for leisure purposes.

Co-ordinated social recreation and community provision

The planned provision of adequate social, recreation and community facilities requires a strategy, which assesses demand in relation to existing provision, so that need can be identified. There is scope to promote further co-ordinated provision of new or improved community facilities.

It will be for the Detailed Development Plans to identify where existing facilities should be retained and where new facilities should be provided.

Strategic Policy 33

The States will seek a strategic approach to the provision of social, recreation, and community facilities by assessing needs (including social needs) and local demand (including latent demand). The Detailed Development Plans will make provision for the protection, enhancement, and new development of such facilities.

Established Recreation Facilities in the Rural Area

The improvement of established recreation facilities in the Rural Area that are recognised as 'Centres of Sporting Excellence' by the Culture & Leisure Department may involve additional development in the countryside. In such cases, the benefits of the development to the local community needs to be balanced with its environmental impact.

Strategic Policy 33(A)

Detailed Development Plans may provide for limited development of established recreation facilities in the Rural Area that are recognised as Centres of Sporting Excellence where this would not have a substantial adverse impact on the rural environment.

Golf course development

The establishment of a second, 18 hole golf course at La Grande Mare was approved by the States in 1993 (Billet d'Etat XXI, 1993) but the development has not, to date been fully completed.

In 2002, the Policy & Resource Planning Report recorded that the former Recreation Committee still supported the creation of a third golf course on the Island by a private developer. It was, however, giving the matter low priority against the background of other major initiatives.

The last States Resolution on the matter in January 1991 “negatived” the Recreation Committee’s proposition that there was likely to be a demand for a third golf course.

As the matter has been raised again during the Planning Inquiry into the Rural Area Plan Review I, the Strategic Land Planning Group considers that the Environment Department should be able to establish an ‘Area/s of Search’ for an 18 hole golf course if a justifiable demand for such a facility is established by States Resolution and provided that the location would not conflict with the protection of high quality agricultural land and the quality of the rural environment.

Strategic Policy 33(B)

If it is established by States Resolution that there is a justifiable demand for an additional 18 hole golf course, the Environment Department shall make provision for an ‘Area/s of Search’ to be designated in the Detailed Development Plans.

COUNTRYSIDE

Landscape

The Island contains a variety of different landscapes ranging from coastal landscapes of cliffs and bays, to the lowland landscapes of marais and hougues, and the upland landscapes of valleys and escarpments. The distinctive character for each of these different areas must be maintained and enhanced, and new development should contribute to that character.

Strategic Policy 34

Priority may be given to protecting and enhancing the quality and amenity of the Island’s landscapes.

Wildlife and nature conservation

The Island contains a wide variety of ecological habitats. These range from unimproved grassland and orchid meadows to reedbeds and water filled quarries. The protection and enhancement of ecological habitats will maintain the diversity of the countryside and encourage visitors.

Strategic Policy 35

The Environment Department should seek to identify landscapes of particular ecological importance, and to ensure the protection and enhancement of such areas by encouraging appropriate management schemes.

Rural development

A viable farming industry is essential to the protection of countryside character and quality. Agriculture makes use of approximately 10,000 verges of land, which represents 26% of the total land area and 65% of open land. Farming practices have a significant impact on the countryside and Island wildlife. Farmers therefore have a vital rôle in environmental management as a part of the farming business.

The policy of the States is that the rural environment should be conserved and enhanced. This means taking pro-active steps to avoid damaging the countryside while promoting practices that support nature conservation and maintain its character. To manage and conserve its value the countryside needs viable agricultural businesses which promote and protect the rural environment. Acceptable forms of rural development should be accommodated, but recognising that this must not be at the unreasonable expense of landscape, nature conservation, historic interests or the land needed for farming activities. All agencies involved in rural areas should be encouraging the continuation of good land management and practices which conserve the qualities of landscape, nature conservation and heritage.

The particular rôle of farmers and farming practices in fulfilling this policy has been recognised through contractual payments to farmers who farm in an environmentally sensitive way. The farm management contracts promote a less intensive form of farming which:

- Ensures the installation of equipment to prevent farm pollution.
- Develops farming practices that sustain the environment.
- Maintains hedgerows, trees, earth banks, water courses, wetland areas and other natural or historic features.
- Promotes nature conservation and biodiversity.

The dual purpose of supporting viable businesses and environmental management to maintain and enhance the countryside should therefore benefit the farming industry, the rural environment and the Island community.

Strategic Policy 36

The character, appearance and amenity of the countryside will be improved and enhanced by:

- **The integrated development of viable farming business linked to nature conservation and environmental management.**
- **Locating new development within the existing built-up area wherever possible.**
- **Preventing development which does not need to be located in the countryside.**
- **Encouraging opportunities to extend and improve wildlife habitats on farmland, for example through additional tree planting, retaining and creating new hedgerows, and creating new wetlands.**
- **Protecting agricultural land from irreversible development wherever possible.**
- **Considering development proposals in the countryside on the basis of their environmental, economic and agricultural implications, and how they can enhance countryside quality.**

Derelict land

Many parts of the rural area have suffered from the decline of horticulture resulting in large areas of derelict and unused land. Some substantial areas of derelict land have been reclaimed through clearance schemes organised by the former Board of Industry and its predecessors but labour is no longer readily available through the Fieldwork scheme for unemployed people to carry out this work as a public service. Alternative ways of funding and implementing the clearance of glass are being considered.

It is clearly desirable that areas of derelict land should be reclaimed and restored. Opportunities should be taken to reinforce and enhance the landscape character of the area, and to provide new recreational amenities and wildlife habitats.

Strategic Policy 37

Derelict and disused land should be reclaimed with priority given to sites that have a major impact on local residents, and the image of the Island for potential investors and tourists. Restoration and after-use of derelict land should have regard to overall setting, landscape character, and potential for creating new habitats.

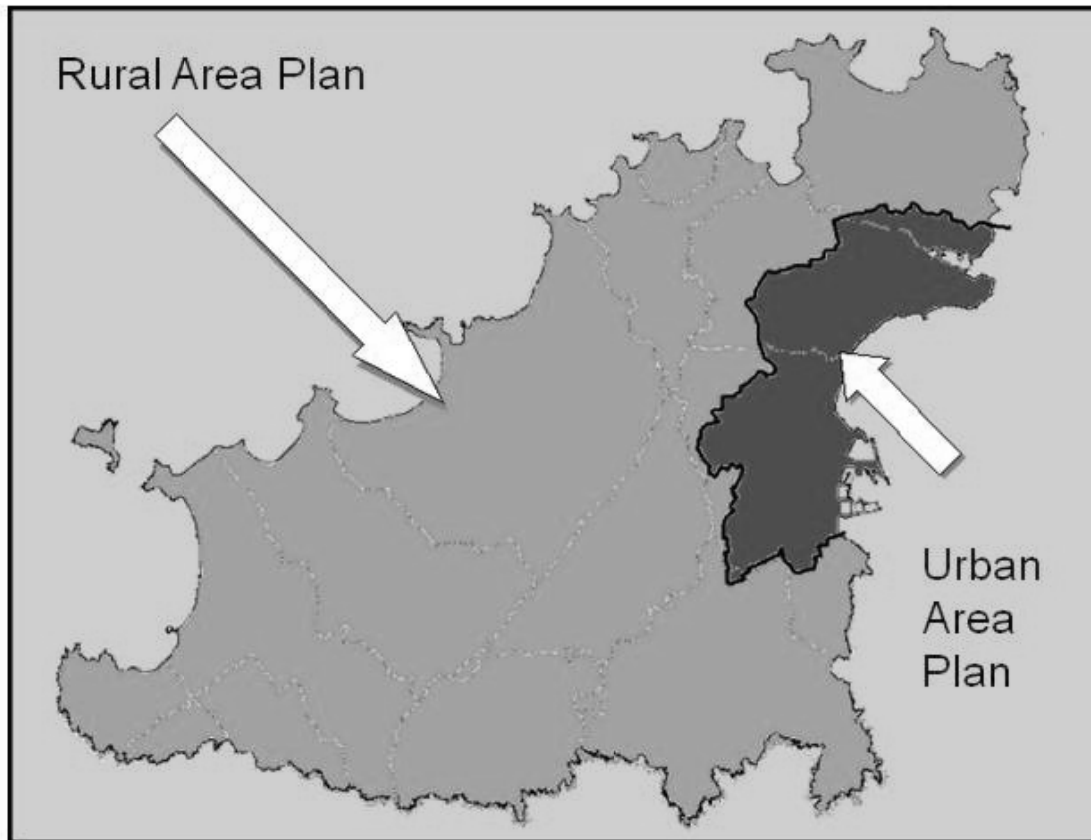
The built environment and Guernsey's cultural heritage

The Corporate Agenda (Natural & Built Environments and Culture Key Themes) recognises the importance of Guernsey's built environment and cultural heritage to the attractiveness of the Island and its sense of having a unique identity. In preparing

Detailed Development Plans, it is important that these matters are given due weight whilst acknowledging that they may have to be balanced against other legitimate considerations in determining individual cases.

Strategic Policy 38

The Detailed Development Plans will include policies to ensure that the built environment of the island is conserved and enhanced and that the cultural heritage is safeguarded from damaging change.

APPENDIX 3

APPENDIX 4

Headline Issues (ranked from 1 to 8 in order of importance given by participants)	
Business	<ol style="list-style-type: none"> 1. Keeping dairy farming alive in the island 2. Finding the best use for old glasshouse sites 3. Providing small workshops and yards for “Fred in the shed” 4. Keeping up with new technologies and other global changes 5. Making the island more attractive for visitors 6. Encouraging more skilled people to work in the island 7. Keeping Town special and different from other towns 8. Making sure Town, The Bridge and Parish Centres are good places to shop
Community & Social	<ol style="list-style-type: none"> 1. Making it easier for older people to live independently 2. Creating places where young people can meet and do things 3. Tackling localised patterns of crime and disorder 4. Getting everyone involved in making choices about the island’s future 5. Giving people a chance to find a home that is suitable 6. Making sure that older people can remain fit and active 7. Making it easier for the whole community to use school sites 8. Creating environmentally friendly places to live
Functional	<ol style="list-style-type: none"> 1. Sorting, re-using and recycling more waste 2. Increasing the level of renewable energy production 3. Providing better facilities for public transport use 4. Making sure that the airport is able to operate effectively 5. Using waste as a source of energy 6. Linking public and private sector funding to deliver better facilities 7. Creating safer and more pleasant routes for cycling and walking 8. Providing facilities to deal with left over waste
Environmental	<ol style="list-style-type: none"> 1. Looking after buildings and places of historic importance 2. Looking after the special features of our landscapes 3. Improving sea water quality 4. Encouraging owners to realise the full potential of their property 5. Using States owned property efficiently and effectively 6. Improving the quality of public places (e.g. streets, squares and footpaths) 7. Protecting the island’s water resources 8. Adapting to a changing climate
Other specific requirements	<ul style="list-style-type: none"> • Providing enough homes (must provide 1700 homes over a 5 year period) • Making provision for wastewater treatment (must identify an area of search for a wastewater treatment facility)

APPENDIX 5

I. SOCIAL AND COMMUNITY	
Desired Outcomes	Views from Guernsey Tomorrow
<p>i. Socially inclusive and diverse communities and neighbourhoods</p> <ul style="list-style-type: none"> • Deliver housing which meets the island's strategic needs • Deliver 'lifetime' neighbourhoods and homes • Improve facilities/services in urban and 'village' centres • Allow health and social care services to be housed in appropriate accommodation 	<p>People would like to see a mix of housing types to meet the needs of the community. It has been suggested that large sites should be available for families and purpose built housing should be provided for older and disabled people. Some have suggested the provision of more community focussed housing, especially homes for older people, in the built-up areas around existing 'village' centres. Others would like to see the increased provision of smaller homes to release larger under-occupied housing. People have suggested that new homes be provided in the central and fringe areas of St Peter Port, re-locating businesses.</p> <p>Some would like to see even more emphasis on 'village' based communities. People would like to see more provision for youth and more support for older people who want to lead independent lives in their own homes. In addition, it has been suggested that 'village' communities need improved facilities, services and employment, particularly for young people. One proposal was for the development of a new community in the L'Aumone area.</p> <p>The historic town of St Peter Port is commonly regarded as one of the most attractive coastal towns in the British Isles with a good range of shops, restaurants and bars. Some are concerned, however, that the retail and business sectors may be over provided for. When it comes to shopping, people like the character of St Peter Port, the local independent shops in Town and other areas of the island and the out of town 'villages' and traditions such as 'hedge veg'. Some worry, however, that St Peter Port is beginning to lose some of its unique character and becoming like any other small British town. People would like to keep St Peter Port and St Sampson as the main shopping areas with rural centres providing convenience shops. It was also suggested that entertainment in St Peter Port be developed further. People consider Guernsey to be well off for restaurants and eating out but some would like to see more al fresco facilities. Young people, in particular, would like to see more fast food restaurants and coffee shop chains. The lack of public amenities, including green spaces, toilets and disabled facilities are other areas that some feel make shopping more difficult or less of a pleasure.</p>

I. SOCIAL AND COMMUNITY	
Desired Outcomes	Views from Guernsey Tomorrow
ii. A range of training and employment opportunities to match all skills and needs <ul style="list-style-type: none"> • Meet the accommodation needs for education and training 	<p>The island schools and colleges are regarded as providing a high standard of education and there are good off-island links with higher education establishments. Attitudes to the education system vary and are the cause of much controversy. There are concerns about the turnover of teachers due to short term housing licenses, as well as worries about the 11+ system and student loans. In order to maintain a well educated workforce there is support for tough decisions being made about school funding and closures. People would like to see encouragement for young people to stay in Guernsey and for students to return after further education.</p> <p>People have suggested that fewer schools be re-built and replaced so that we can concentrate on making fewer schools better resourced. Some have also proposed a Guernsey centre of excellence to provide training in new areas for economic development such as alternative technologies (e.g. marine renewable energy).</p>

I. SOCIAL AND COMMUNITY	
Desired Outcomes	Views from Guernsey Tomorrow
iii. A safe, secure and accessible environment for all <ul style="list-style-type: none"> • Provide an environment that feels safe • Encourage social interaction and informal places for young people. • Improve accessibility for all 	<p>People generally appreciate the island's friendliness, its community spirit and the relative safety that make it a good place to raise a family. However, there are concerns about the alienation of some sectors of society and the impact of anti social behaviour such as drunkenness and vandalism. Some, however, highlighted an apparent lack of consideration for the needs of the young and a loss of respect for the needs of the older generation. Some also felt that alcohol fuelled anti-social behaviour is having a negative impact on night-life in St Peter Port and that smoking outside bars and young people congregating in groups adds to a feeling of intimidation.</p> <p>It was suggested that more places for the community to meet be created, inclusive of all age and social groups, with an emphasis on fitness for older people and providing a safe haven for young people.</p> <p>Generally, people feel that there are plenty of easily accessible recreation facilities available to all on the island with particular recognition of the performing arts and music scene. For some the lack of provision for culture and the arts (including public/street art) is a concern and they would like to see cultural arts development and more affordable, creative centres aimed at the younger generation (e.g. skate parks and recording studios).</p> <p>People value the fact that everything is close by and</p>

	<p>they are able to get around relatively quickly. But people also feel that the roads are overcrowded with too much traffic. Some feel that the parking situation needs improving and that parked cars on our piers and pavements spoil the look of the island.</p> <p>Islanders like to walk and cycle for both pleasure and to get to work. Some are concerned about the lack of facilities for cyclists and pedestrians. Suggested improvements centre around better cycle lanes and walking routes, particularly from the north to the south of the island, plus a pedestrian priority sea front and more secure storage for cycles and showers for commuters. People have suggested using existing main road links and the network of ruelles tranquilles/green lanes to provide better connections between centres. Other suggestions include more and better sign-posted cycle contra-flows, lower speed limits in lanes and restricting access in some lanes to residents only.</p> <p>For the most part the bus service is popular and seen as value for money but there are concerns that the buses are perhaps too large. Improvements suggested include: a modern, sheltered bus terminus; smaller more efficient buses; late night services; better, free school bus service; a shuttle service between transport hubs such as the Airport to Town/harbour; and buses with bike racks. In particular people would like to see an improved bus service between Town and The Bridge with consideration given to the introduction of single tracked trams powered by renewable energy.</p> <p>There are concerns that the needs of the disabled are not provided for adequately.</p>
II. BUSINESS	
Desired Outcomes	Views from Guernsey Tomorrow
<p>i. A range of business opportunities for new and innovative enterprises</p> <ul style="list-style-type: none"> • Foster innovation and enable a broad range of economic activities to flourish • Sustain service trades and other employment uses with a low-added value • Support and encourage business start-ups • Safely accommodate and mitigate the impacts of hazardous and bad neighbour industry 	<p>People consider that the smallness of the island favours innovation and enterprise but there are some concerns that it is hampered by red tape (e.g. planning and immigration). A common area of concern is the over-reliance on one, dominant industry and the limited career options for young people outside of finance. At the same time, people value the fact that the island is not too industrialised and that thriving small businesses offer a range of job opportunities.</p> <p>Although all enjoy an environment that is mostly tranquil, clean and not overly industrialised some feel that country areas are becoming too 'pretty-pretty' whilst others feel there are too many derelict glasshouses and disused buildings on redundant vinery sites representing a wasteful use of limited</p>

	<p>land resources. One suggestion is to use some glasshouse sites for localised small-scale premises to accommodate clean small businesses/trades. Some have also suggested that the clearance of very large vinery sites be incentivised by allowing owners to use a small percentage of the area for commercial use.</p> <p>To encourage entrepreneurship, people would like to see more support for start-ups and for small non-financial businesses. This includes support and guidance for businesses operating from home.</p> <p>Being part of a group of islands mean that islanders enjoy the benefit of holidaying at home but some feel more should be done to bolster tourism by developing ourselves as a unique cultural and artistic destination. Some are concerned that there is a lack of good quality visitor accommodation and tourist attractions. Suggestions include more low-cost visitor attractions and indoor activities for young people with more information and signage to help visitors find and interpret the island's features.</p>
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II. BUSINESS	
Desired Outcomes	Views from Guernsey Tomorrow
<p>ii. A globally competitive centre of economic growth</p> <ul style="list-style-type: none"> • Provide an adequate supply of modern office accommodation • Support a high capacity and resilient telecommunications network • Provide modern strategic transport infrastructure (airport and harbours) • Ensure security of liquid fuels supplies • Make better use of the eastern seaboard • Making the planning process more proportionate and effective 	<p>People appreciate the importance of maintaining a balance between more development and protecting the environment and would like to see previously neglected areas revitalised, whilst keeping the traditional and unique character of the island but allowing change to suit diverse needs.</p> <p>The need to provide modern business premises that are fit for purpose and supported by world class infrastructure is generally acknowledged.</p> <p>People identified the airport as the island's main strategic asset and suggested no-build areas within the runway approach area and extending the length of the runway. Some questioned the amounts spent on airport expansion, while others considered that the airport is located in the wrong place altogether.</p> <p>There were also some suggestions for improvements to the harbour including dedicated cruise berths and modernisation of the passenger buildings and quays.</p> <p>Against a backdrop of rising fuel costs and climate change there are worries about the island's reliance on imported sources of energy and people would like consideration given to tidal power.</p> <p>Many have strong feelings about development on the coast and opinion is divided about further land reclamation. Whilst people appreciate the</p>

	<p>appearance of the St Peter Port waterfront, marinas and the views towards the other islands some of the piers are thought to be unattractive and marred by parking. There are some concerns about the number of high-rise buildings and traffic congestion along the east coast. To relieve development pressure on the rural areas and to ease traffic congestion, some would like consideration to be given to some gradual land reclamation (in the Belle Greve bay area) and new uses for the Town Piers.</p> <p>Some think that planning policies are too restrictive and this leads to a perceived lack of consistency. People believe the island is small enough to be innovative in its decision making but is sometimes hampered by a lack of boldness. People would like the government to take the lead and encourage sustainable, eco-friendly developments with high standards across all schemes.</p>
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II. BUSINESS	
Desired Outcomes	Views from Guernsey Tomorrow
<p>iii. Sustainable management and wise use of environmental resources</p> <ul style="list-style-type: none"> • Sustain farming and local food production (including fishing) • Switch progressively to clean renewable energy sources 	<p>The Guernsey cow is a symbol of the affection held for the island's dairy produce; this extends to other local produce and 'hedge veg' as well as the increasingly popular farmers' markets. The same can be said for local seafood especially the ormer. Whilst people understand that the island cannot be completely self-sufficient and is somehow dependant on the importation of food, there are concerns about a possible decline in local food production. People would like to encourage more self-sufficiency and local food production by, for example, using disused vinery sites as allotments. Some have also suggested that vocational opportunities in the countryside be improved by partnering schools with working farms and encouraging them to develop their own allotment system or market garden.</p> <p>The power station is regarded as visually ugly and is disliked both because of this and its contribution to air pollution and greenhouse gases. In order to foster a renewable energy culture, people would like the States to set out a plan of action which might include the installation of solar panels on public buildings, training technicians and future investment plans. Some suggest harnessing energy sources such as tidal stream. In addition, some suggest that incentives be given for the domestic installation of alternative, 'green' technologies and that energy from micro-renewables is maximised i.e. harnessing on-site systems such as solar, air or ground source heat pumps.</p>

III. ENVIRONMENT	
Desired Outcomes	Views from Guernsey Tomorrow
i. High quality and accessible physical environment <ul style="list-style-type: none"> • Maintain clean air, water and soils • Improve access to green open space • Improve the quality of urban spaces 	<p>The maintenance of water quality, air quality and the preservation of a safe and clean environment are regarded as highly important.</p> <p>Undeveloped green areas are treasured and people value having access to them, they dislike the gradual suburbanisation of the island through scattered development on open fields. People would like to see green spaces preserved with more tree-planting and better quality public spaces provided in Town.</p>

III. ENVIRONMENT	
Desired Outcomes	Views from Guernsey Tomorrow
ii. Effective and efficient conservation and use of land and buildings <ul style="list-style-type: none"> • Make the most effective use of developable land • Protection of a managed countryside • Manage the coastal and marine environment • Use resources efficiently and minimise wastage (energy, waste and water) 	<p>There is a perception that the island cannot sustain a lot of new building due to the size of the island and the dependence on imported resources. There are also concerns that sprawling suburbanisation, wasteful developments and the poor standard of some high density developments give the impression of over-development. In particular, overcrowded roads, together with scattered, ribbon and coastal development contribute to the feeling that the island is too densely populated. Some feel that there has been too much building in the north and not enough in the south west whilst others believe that the island is not too built-up because development has been contained in certain parts of the island. There is widespread support for development on brown field sites, in and close to the urban area and suggestions for taking advantage of existing opportunities such as converting and sub-dividing existing buildings (e.g. former hotels) and re-using States property (e.g. Belgrave Vinery) before considering new green field sites. Some would like to see even more emphasis on 'village' based communities.</p> <p>Sound environmental stewardship and good husbandry of the countryside is much appreciated. People appreciate the rôle of farmers as custodians of the country and do not like to see development of open fields or country areas either becoming too manicured (e.g. fields mown as lawns) nor neglected (e.g. derelict glasshouses or abandoned cars).</p> <p>Rising sea levels, sea defences, fish and shell fish stocks, marine pollution and sewage are all things that cause concern. People believe that more 'joined-up' planning between States departments and other relevant agencies is needed to sort out these issues. In particular, people have identified the need for a coastal management plan including a proposal for improved sea defences and drainage systems. Some suggested that the management of amenity areas next to our beaches could be improved; for example, the</p>

	<p>recycling facilities at Vazon were mentioned. Suggestions were also made to increase the facilities for families and young people at our beaches including more provision for water sports, trampolines and play areas plus a simplified system of beach permits co-ordinated by the kiosks. There is also a widely held opinion that the pumping of raw sewage into the sea should stop.</p> <p>People are keen to see action on the wise use of local resources and communities planned to aid 'green' living, encompassing energy efficiency, waste reduction and recycling, composting and localised sewage treatment. There is commitment to recycling, although there are concerns that some sites are poorly situated and unsightly.</p>
III. ENVIRONMENT	
Desired Outcomes	Views from Guernsey Tomorrow
iii. Protection and enhancement of the natural and built environment <ul style="list-style-type: none"> • Maintain and enhance the island's local distinctiveness • Conservation of the built environment • Protection of natural habitats 	<p>The island's structure, the individual character of the parishes and the sense of 'village' is prized. Some are concerned that bad planning decisions have resulted in unsustainable developments that are out of keeping with the island. There are mixed opinions about the modern buildings recently developed or being developed. Some believe them to be poorly designed and ugly, or that they may be difficult to run and maintain, while others like the look of them. People would like to see new builds that harmonize with existing built up areas and avoid the loss of natural areas. The islands cultural heritage and local arts scene are well regarded but there are concerns that the island's cultural identity is diminishing.</p> <p>People treasure the natural beauty of the surroundings provided by our cliffs, bays and beaches and undeveloped open space. They value the small meadows, earth banks and hedgerows that support wild flowers and an abundance of wildlife. Some are concerned about the apparent destruction of the natural habitats. People would like to see green spaces preserved with greater protection and management of natural habitats, good land management and farm husbandry.</p>

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

The States are asked to decide:-

IV.- Whether, after consideration of the Report dated 27th July, 2010, of the Policy Council, they are of the opinion:-

1. To note the programme for the preparation of a revised Strategic Land Use Plan, including the involvement of States members in the development of a preferred strategy.
2. To note that the Urban Area Plan (Review 1) and the Rural Area Plan (Review 1) and any alterations and additions thereto approved by the States are effective until July 2012 and December 2015, respectively, subject to extension of that period at any time by resolution of the States, and to any alterations made to either under the Land Planning and Development (Guernsey) Law, 2005.

(NB The Policy Council has requested that this matter be debated in accordance with Rule 12 (4) of the Rules of Procedure of the States of Deliberation which provides

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

SOCIAL SECURITY DEPARTMENT

BENEFIT AND CONTRIBUTION RATES FOR 2011

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

12th July 2010

Dear Sir

Executive summary

Introduction

1. The Department has undertaken its annual review of the social security and health benefits paid under the various schemes for which it is responsible and, with the exception of the non-contributory supplementary benefit payable to 16 and 17 year old non-householders, will recommend increases in all benefit rates.
2. The Department's benefit uprating policy is, over the long-term, to increase benefit rates at the mid-point of the increase in RPI (prices) and the increase in earnings. Over the long-term, earnings generally exceed prices by 2% per year, and the Department's benefit uprating policy is, effectively, RPI plus 1%. However, the Department is aware that the Fiscal and Economic Plan contained within the States Strategic Plan sets RPIX rather than RPI as the States official measure of inflation going forwards and the Department is more tentative about the degree to which that index should be exceeded in order to maintain the established uprating in effect. It is expected that the actuarial reviews of the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long-term Care Insurance Fund, which are currently being undertaken simultaneously as reported in paragraph 57, will bring some clarity for the future.
3. In bringing to the States its proposals for increases in benefits, the Department is mindful of the pressures on all States Departments to cut back on public expenditure, but mindful also that the Department is mandated to provide a social security coverage for all of the community, including its poorest members. Having regard to the June 2010 RPI figure for Guernsey of 2.3% and the RPIX figure of 2.4% the Department is recommending increases, with the exception of invalidity benefit, of approximately 2.9% for the contributory (contribution based) social insurance and long-term care insurance benefits and increases of

approximately 2.4% for the non-contributory benefits funded from general revenue.

Key Recommendations

4. In addition to providing an update on the pilot programme for mental health service in primary care practices at paragraphs 19 and 76 to 80, the Department is recommending a number of changes and the key ones are set out below:-
 - with the exception of invalidity benefit, approximate increases of 2.9% on the contributory benefits, including long-term care benefit and 2.4% on the non-contributory benefits, including supplementary benefit and family allowance.
 - a 1.5% increase in the rate of contributory invalidity benefit as a first step towards replacing sickness benefit and invalidity benefit with a single incapacity benefit. This is proposed against a background of increasing numbers of people receiving invalidity benefit and concerns about sickness benefit automatically converting to the higher rate invalidity benefit when a person has not returned to work within 6 months. While sickness benefit and invalidity benefit provide a level of financial assistance, it is not financial adequacy. Both need the support of either savings, a partner's income or supplementary benefit in order for a subsistence level of income to be reached. The current difference between the two full rates of benefit is £28 per week and while the Department believes that there is no real justification for this figure, the transition from sickness to invalidity conveys a status of invalidity and a quantum distance further removed from work (paragraphs 21 and 23). This runs contrary to the Department's efforts to assist returns to the workplace.
 - the second phase increase in the upper earnings limit for employed, self employed and non employed people as part of the 5 year phasing in period (as agreed at the July 2009 States meeting Billet d'Etat XXI of 2009) from £79,872 to £91,884 from 1 January 2011 (paragraphs 34, 41 and 45).
 - increases in the upper earnings limit for employers from £117,468 to £120,900 per year and in the lower earnings limit from £114 to £117 per week from 1 January 2011 (paragraphs 35 and 39).
 - an increase in the lower income figure at which non-employed contributions become payable from £14,820 to £15,210 per year from 1 January 2011 (paragraph 49).
 - an increase in the non-employed allowance, which is subtracted from the annual income figure before liability is calculated, from £6,290 to £6,451 from 1 January 2011 (paragraph 50).

- a reduction in the supplementary benefit requirement rate payable to 16 and 17 year old non-householders (not in full-time education and living with immediate family, friends or relatives) from £79.31 per week to £65.03 per week from 7 January 2011. This is in response to the Department's concern that previous levels of supplementary benefit payable to 16 and 17 year old non-householders incentivises some young people to leave education and can act as a disincentive towards moving into work. However, the proposal recognises that young people who qualify for supplementary benefit by reason of a disability or by being a single parent should have their weekly rate of benefit enhanced so that they receive the same rate payable to 16 and 17 year olds living as part of a supplementary benefit household. In addition, the Department has made a commitment to the Policy Council's Social Policy Group that it will, by exception, apply the same enhancement strategy to avoid the situation where young people might fall into the category of "children in need" (paragraphs 115 to 116).
- the introduction of a new rate of long-term care benefit of £497.77 per week from 3 January 2011, to apply to residents of private residential homes who have additional care needs by reason of elderly mental infirmity. The Department recognises that, depending on the degree of mental infirmity, the care needs of elderly mental infirm (EMI) patients can be very intense and, taking into account the professional opinions of Health and Social Services staff and the owners and managers of care homes, believes that it is appropriate to recommend the introduction of a new rate of benefit (paragraphs 88 to 93).
- an amendment to the Social Insurance (Guernsey) Law, 1978 ("Social Insurance Law") so that the Guernsey Insurance Fund can be used to provide access to the back to work benefits for any jobseeker who is an insured person (registered as employed, self-employed or non-employed). This will widen the scope to any jobseekers that are not currently entitled to contributory unemployment, sickness or invalidity benefits (paragraphs 24 and 25).
- an increase in family allowance, previously frozen at the 2009 rate of £14.60, to £15.00 per week from 3 January 2011 (paragraphs 133 and 134).
- an increase in the supplementary fuel allowance, previously frozen at the 2009 rate of £22.70, to £24.67 per week for the 27 week period commencing from the last week in October 2010 (paragraphs 128 to 131).
- amendments to both the Social Insurance Law and the Health Service (Benefit) (Guernsey) Law, 1990 ("Health Service Law") so that the

provisions relating to Travelling Allowance Grant, which is a health benefit, are transferred from the Social Insurance Law to the Health Service Law (paragraphs 71 to 75).

- an increase in the prescription charge of 10p, taking the cost of a prescription to £3.00 per item from 1 January 2011 (paragraph 65).

Although not appearing as a recommendation in this year's report, the Department wishes to inform the States of its intention, when the finances of the Guernsey Health Service Fund allow, to recommend that a significant proportion of the costs associated with contracts for visiting medical consultants be moved from the Health and Social Services Department's general revenue budget to the Guernsey Health Service Fund. The Department believes that this approach is consistent with the general principle of on-island specialist treatment being financed from the Guernsey Health Service Fund. It will also assist rational decision making regarding the cost of bringing over consultants versus the cost and inconvenience of sending patients off-island (paragraphs 68 to 70).

REPORT

PART I SOCIAL INSURANCE

Income and expenditure on Guernsey Insurance Fund

5. At the July 2009 States meeting, the Department reported on the future financing of the contributory social security schemes (Billet d'Etat XXI of 2009). The States approved the majority of the Department's proposals, but did not approve the proposed increase of 0.5% in the contribution rate paid by employers. This proposal would have increased the current rate from 6.5% of earnings to 7.0% of earnings and played a key part in a package of measures aimed at securing the long-term financing of the contributory social security schemes. In the same debate the States voted against a proposed reduction in the percentage rate of the grant from general revenue which would have ensured that the combined cash amounts of the grants to both the Guernsey Insurance Fund and the Guernsey Health Service Fund would not exceed the total cash amounts in 2009.
6. The Guernsey Insurance Fund accounts for 2009 show income from contributions of £83.67m and from the States' Grant of £12.55m, giving a total income of £96.22m, before taking investment income into account. Total benefit expenditure and administration amounted to £100.22m, producing an operating deficit, before depreciation, of £4.0m. Depreciation of £1.15m, mainly comprising the Department's computer systems, increased the operating deficit to £5.15m for the year. Taking into account the proposed benefit uprating of 2.9%, the expected deficit in 2011 is £9.4m. Again this is before investment income, but the indications are that in 2011 the operating deficit will only just be covered by investment income.

7. The Guernsey Insurance Fund currently receives a grant from general revenue equal to 15% of the total amount collected in contributions. The Guernsey Health Service Fund receives a similar grant equal to 12% of the contributions collected for that Fund. The Department is not recommending any change in the level of the States grants for 2011.
8. The Department decided not to return to the States in September 2009 with the proposals to increase the contribution rate paid by employers or with a reduction in the percentage rate of the grant from general revenue to the Guernsey Insurance Fund pending the outcome of phase 2 of the Zero-10 economic and taxation strategy. However, the Department is keen to put in place all the measures recommended in its report into the financing of contributory social security schemes considered at the July 2009 States meeting (Billet d'Etat XXI 2009) in order to ensure the long-term sustainability of the Guernsey Insurance Fund, and the 0.5% increase in the contribution rate for employers is a key part of that strategy. Representatives of the Department met with the Fiscal and Economic Policy Group of the Policy Council on 7 June 2010 in order to request that the Department's requirements are taken into account in the Fiscal and Economic Policy Group's proposals for the second phase of Zero-10.
9. The estimated costs to general revenue for the States grants to the two funds is shown below.

Fund	General Revenue Grant	General Revenue Grant
	2011	2010
Guernsey Insurance Fund	£13,485,000	£13,015,000
Guernsey Health Service Fund	£4,125,000	£3,980,000
	£17,610,000	£16,995,000

Number of pensioners

10. At the end of June 2010, the Department was paying pensions to 14,954 pensioners worldwide. In 2009, benefit expenditure on old age pensions amounted to £78.36m and constituted 81% of the total expenditure of £96.48m on social insurance benefits.

Number of people unemployed

11. At the end of June 2010 there were 492 jobseekers and 125 of these were in part-time or casual employment. This included 295 people claiming contributory unemployment benefit and 159 people without entitlement to the contributory unemployment benefit but receiving supplementary benefit. A further 38 people were temporarily employed on the Community and Environmental Projects Scheme or other form of training scheme. Adding all these groups together produces an unemployed total of 492, which is 1.54% of the working population.

12. The Department is concerned about there being almost 500 people unemployed. As of the date of this report, the expected reduction in numbers in the summer months has not yet materialised and the Department has yet to see what impact there will be from the summer school leavers.
13. The Department continues to work closely with the Housing Department to ensure that employers seeking short-term housing licences engage with the Job Centre as part of their recruitment process. This helps to ensure that vacancies are filled by local people wherever possible. Although there is a requirement placed upon all jobseekers to actively seek work, the Department recognises that some jobseekers need more help than others. As a result, to maximise the opportunities to match the unemployed to vacancies the Department is exploring ways to access, on a trial basis, the expertise of professional recruitment consultants. If the trial is successful it may lead to further joint working with employment agencies.
14. During 2010, the Department has continued its development of a training centre in a glasshouse block on the Raymond Falla House site in St Martin's. The Department anticipates delivering its first course during autumn 2010, which will focus on carpentry skills. Further courses related to other trade skills will be delivered and it is hoped that this will identify young people with an aptitude for particular trades which will lead to employment and generate additional interest in the Education Department's apprenticeship scheme. Further information regarding the progress of this project is set out in paragraph 142.
15. In the 2009 benefit uprating report the Department explained that it was working on proposals to introduce a recruitment grant payable to employers who employ people who have been long-term unemployed or are returning to work following a prolonged illness. The grant was subsequently introduced during the latter part of 2009 and so far 6 grants have been paid and, as at the date of this report, 4 more are in the pipeline. This is excellent news for the individuals concerned and their families because re-entering work following a prolonged absence is often difficult to achieve. The Department is hopeful that more employers will utilise the grant as the scheme becomes more familiar to those involved in staff recruitment.
16. The training centre and recruitment grant are the latest additions to the Department's various initiatives aimed at encouraging and supporting people back into work. The full range of initiatives is set out in the following table.

Initiative	Description
Work trial	Chance to demonstrate capability to an employer where a real job is on offer. (Benefit remains in payment).
Work experience	Extended work experience with learning goals. (Benefit remains in payment).
Gradual return to work	Phased return to work following long-term sickness. (Some benefit remains in payment).
Kick start	One to one training with trades people aimed at young people at risk of long-term unemployment. (CEPS wage paid).
Basic skills training	Help with basic I.T. reading and number skills. (Benefit remains in payment).
Short-term training	Help for the long-term unemployed or those requiring retraining following illness. (Benefit remains in payment).
Back to work bonus	One off lump sum payable following a return to work and claim closure in cases of long-term unemployment and long-term sickness.
Job start expenses	Help with some of the costs associated with starting work, such as tools, boots, clothing etc.
GOALS	Motivational course aimed at tackling barriers to employment by improving self-esteem and developing a positive mental attitude. (Benefit remains in payment).
Community & Environmental Projects Scheme (CEPS)	Paid work and training opportunities for people who are not working due to unemployment or long-term illness. (CEPS wage paid).
Recruitment grant	Staged payments to an employer to recognise the extra training and support required when recruiting someone who has been long-term unemployed or long-term sick.
The “Get into ...” range of training courses	Short courses aimed at unemployed young people to help identify their skills aptitude. Type of course often dictated by vacancy market and feedback from employers on particular trades. (Benefit remains in payment).

Update on the number of people receiving invalidity benefit

17. At the end of June 2009, there were 852 people receiving invalidity benefit as a result of long-term illness. At 5 June 2010, there were 911 people receiving

invalidity benefit, which equates to roughly 3% of the working population. The Department has reported this rising trend in long-term incapacity in previous benefit uprating reports and the increase observed again over the last 12 months equates to approximately 8% on the 2009 figure.

18. The three tables that follow this paragraph set out the age ranges and gender of invalidity benefit cases, the ten most frequent diagnoses, and the breakdown of those ten by age and gender. As in previous benefit uprating reports, mental health related incapacity accounts for a significant number of invalidity benefit claims. Altogether, mental health related illness accounts for more than 30% of all invalidity benefit claims. As the Department only captures the primary diagnosis for any case, it is highly likely that many other invalidity benefit claimants who have been ill for prolonged periods will have secondary mental health conditions which also impede their return to work.

Age range and gender of invalidity benefit cases as at 5 June 2010				Difference compared to 2009
Age	Gender		Totals	
	M	F		
16-29	45	27	72	+ 8
30-39	47	39	86	- 2
40-49	109	97	206	+ 28
50-59	162	131	293	+ 22
60-64	173	81	254	+ 14
			911	+ 70

Ten most *frequent diagnoses on invalidity benefit claims as at 5 June 2010			
Diagnosis	2010 claim numbers	2009 claim numbers	Difference compared to 2009
Mental disorder	167	138	+29
Depression	68	63	+5
Anxiety	25	27	-2
Back pain	23	24	-1
Alcoholism	19	12	+7
Cerebrovascular accident	19	17	+2
Chronic obstructive lung disease	18	17	+1
Multiple sclerosis	15	13	+2
Low back pain	14	19	-5
Chronic fatigue syndrome	13	12	+1

* other less common diagnoses on invalidity benefit claims may also relate to some conditions listed above.

Ten most frequent diagnoses on invalidity benefit by age and gender as at 5 June 2010											
Diagnosis	16 - 29		30 - 39		40 - 49		50 - 59		60 - 64		Total
	F	M	F	M	F	M	F	M	F	M	
Mental disorder	12	14	15	16	28	22	16	28	4	12	167
Depression	4	7	9	4	5	8	13	10	5	3	68
Anxiety	1	1	1	2	4	1	4	3	2	6	25
Back pain	0	1	1	2	4	3	3	5	1	3	23
Alcoholism	0	0	0	1	1	4	3	7	0	3	19
Cerebrovascular accident	0	0	0	0	2	2	1	4	3	7	19
Chronic obstructive lung disease	0	0	0	0	0	2	3	3	2	8	18
Multiple sclerosis	0	0	0	0	5	3	2	3	1	1	15
Low back pain	0	0	0	1	0	1	3	5	0	4	14
Chronic fatigue syndrome	0	0	0	0	2	1	3	0	5	2	13

19. In the 2009 benefit uprating report, the Department explained that it was working with the Health and Social Services Department on plans to introduce a new medical benefit to partly or fully meet the cost of providing psychological therapies at primary care level. A business case for the provision of this new service is now being developed by the two Departments. At the June 2010 States meeting (Billet d'Etat XV of 2010), the States approved a Project de Loi which will enable the Department to finance the proposed new service as a pilot programme. This will be launched as soon as practicable once the Law has returned from the Privy Council. It is hoped that the pilot programme will be in place in the first half of 2011.
20. While the development of a psychological therapies service at primary care level should prevent some mental health related claims from becoming long-term, the Department is still very concerned by the overall rising trend in sickness-related claims to benefit. To put this into perspective, in 2009 the Department paid out from the Guernsey insurance fund, £3.49m in sickness benefit and £6.72m in invalidity benefit. In addition, it paid a further £3.0m from its formula-led general revenue budget in respect of sickness claims from supplementary benefit claimants, thereby bringing the total expenditure on sickness-related benefits in 2009 to £13.21m.
21. One particular area of concern for the Department relates to the way that, in accordance with the legislation, sickness benefit automatically converts to the higher rate invalidity benefit when a person has not returned to work within 6 months. The original thinking behind the introduction, during the mid-seventies, of a higher rate of benefit after 6 months, was that it was justified because the standard rate of sickness benefit was only thought to be sufficient to cope with brief interruptions of employment. Furthermore, employment had often come to

an end after 6 months sickness and any savings held had been utilised to supplement the family income. In addition, at that time, people receiving sickness benefit could not claim supplementary benefit to top-up their income until their period of sickness had lasted for 6 months.

22. As the rates of benefit involved have not kept pace with the uplift in earnings over the last two decades, and given that supplementary benefit can now be claimed from the outset of sickness, the Department believes that there is no longer any justification for having two rates of benefit or for paying a higher rate of benefit when a person has not returned to work within 6 months. Both sickness benefit and invalidity benefit provide a level of financial assistance, not financial adequacy. Both need the support of either savings, a partner's income or supplementary benefit in order for a subsistence level of income to be reached. The current difference between the two full rates of benefit is £28 per week. While there is little logic and no real justification for this figure, the transition from sickness to invalidity benefit obviously conveys a status of invalidity and a quantum distance further removed from work. This runs contrary to the Department's efforts to assist returns to the workplace.
23. The Department will investigate how it might replace sickness benefit and invalidity benefit with a single incapacity benefit, which does not increase in value the longer a person remains out of work. The Department will report on the progress of this investigation in next year's benefit uprating report. In the meantime, as a first step towards closing the gap between the two benefits, the Department is proposing an increase of 1.5% from 2011, which is approximately half the increase proposed for all other contributory benefits, including sickness benefit. The rates are set out in paragraph 30.

Improving access to work incentives for supplementary benefit jobseekers

24. The Department introduced the back to work benefits in 2005. Aimed at people receiving contributory unemployment benefit, contributory sickness benefit and contributory invalidity benefit, the back to work benefits help incentivise the long-term unemployed and long-term sick who are receiving contributory benefits to return to work or undertake training to improve their chances of obtaining work. In addition to funding training, the back to work benefits include a back to work bonus of up to £500 payable once a person who has been out of work for at least 6 months has successfully completed 4 weeks work, is still employed and their claim to benefit has closed. The back to work benefits also include access to the recruitment grant, which was introduced in 2009 to incentivise employers to offer employment to the long-term unemployed or those recovering from long-term illness. The maximum rate of recruitment grant paid to the employer is £2,500.
25. While the back to work benefits are available to people receiving the relevant contributory benefits, the Department is conscious that some long-term jobseekers and some people recovering from long-term illness, although being

“insured persons” under the Social Insurance Law (registered as employed, self-employed or non-employed) only receive supplementary benefit because of inadequate contribution records. Not being in receipt of the contributory benefits, they do not have access to these work incentives. Given that anyone returning to work will become a contributor to the social insurance scheme, the Department is proposing that the Social Insurance Law be further amended so that the Guernsey Insurance Fund can be used to provide access to the back to work benefits for anyone who is an insured person. This will extend the scope to long-term jobseekers and people recovering from long-term illness who are not entitled to contributory unemployment, contributory sickness or contributory invalidity benefits.

Passing on transactions costs to overseas beneficiaries

26. Each month the Department pays approximately 600 pensions and a small number of other benefits and allowances to people living overseas outside the UK. At present, the transaction costs incurred in making payments into foreign bank accounts is borne by the Department. The cost of paying benefits into Guernsey and UK bank accounts equates to approximately £0.11 per month whereas the cost of paying benefits into foreign bank accounts is £2.74. The UK Department of Work and Pensions overseas benefit payment system operates on the basis whereby overseas transaction charges are paid by the relevant beneficiary. Overseas pensioners receiving pensions from the Jersey Social Security Department are charged approximately £3.00 per transaction or the cost is absorbed into the exchange rate calculation.
27. During 2010, the Department expects the annual transactions costs to overseas beneficiaries to total approximately £20,000. The Department is, therefore, proposing that the Social Insurance Law be amended, so that from 1 January 2011, or as soon as reasonably practical following that date, the transaction costs are passed on to the overseas beneficiaries.

Proposed Benefit Rates for 2011

28. With the exception of invalidity benefit, the Department is recommending increases in the rates of pension and all other social insurance benefits of approximately 2.9% to take effect from 3 January 2011.
29. The proposed 2.9% increase in old age pension will add £5.04 per week to the full rate single pension, will add £2.52 per week to the so called 'married woman's pension' and will mean a £7.56 per week increase for a pensioner couple on full rate pension. The joint increase will be £10.08 per week in cases where both spouses were paying full-rate contributions throughout their working lives as they will receive two full pensions totalling £359.38 per week.
30. The proposed new rates of pension and other contributory social insurance benefits are shown overleaf:

Weekly paid benefits	2011	2010
Old Age Pension -		
Insured person	£179.69	£174.65
Increase for dependant wife or pension for wife over 65 based on husband's record (marriages pre 01-01-04)	<u>£90.02</u> £269.71	<u>£87.50</u> £262.15
Widow's/Survivor's Benefits -		
Widowed Parent's Allowance	£188.93	£183.61
Widow's Pension/Bereavement Allowance	£162.40	£157.85
Unemployment, Sickness, Maternity and Industrial Injury Benefit	£132.23	£128.52
Invalidity Benefit	£158.90	£156.52
Industrial Disablement Benefit -		
100% disabled	£144.83	£140.77
One-off grants		
Maternity Grant	£331.00	£322.00
Death Grant	£515.00	£500.00
Bereavement Payment	£1,630.00	£1,584.00

31. These foregoing rates of weekly benefit and grants apply to persons who have fully satisfied the contribution conditions. Reduced rates of benefit are payable on incomplete contribution records, down to threshold levels.

Social insurance contributions

32. Pending the consideration of the States on the second phase of Zero-10, the Department will not be recommending any changes to the percentage contribution rates for 2011, which will therefore continue at the current rates and the income allocated across the 3 Funds as shown in the following tables.

Contribution rates for employed persons	2011	2010
Employer	6.5%	6.5%
Employee	<u>6.0%</u>	<u>6.0%</u>
Total	<u>12.5%</u>	<u>12.5%</u>

Contribution rates for self-employed persons	2011	2010
	10.5%	10.5%

Contribution rates for non-employed persons under 65	2011	2010
	9.9%	9.9%

Contribution rates for non-employed persons over 65	2.9%	2.9%
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*Allocation of income across the 3 Funds	2011	2010
Employed		
Social Insurance	8.3%	8.3%
Health insurance	2.9%	2.9%
Long-term Care	1.3%	1.3%
	<u>12.5%</u>	<u>12.5%</u>

Self-employed		
Social Insurance	6.5%	6.5%
Health insurance	2.7%	2.7%
Long-term Care	1.3%	1.3%
	<u>10.5%</u>	<u>10.5%</u>

Non-employed under 65		
Social Insurance	5.7%	5.7%
Health insurance	2.8%	2.8%
Long-term Care	1.4%	1.4%
	<u>9.9%</u>	<u>9.9%</u>

Non-employed over 65		
Health insurance	1.3%	1.3%
Long-term Care	1.6%	1.6%
	<u>2.9%</u>	<u>2.9%</u>

* To be modified when the transfer of travelling allowance grant to the Health Service Law is given effect (paragraphs 71 to 75 refer).

33. In accordance with the States Resolutions concerning the future financing of the contributory social security schemes (Billet d'Etat XXI of 2009) the upper earnings and income limits for employed people, self-employed people and non-employed people are to be incrementally increased from 1 January 2010 to match the upper earnings limit for employers. 2011 represents the second year of a 5 year phasing in period.

2011 upper earnings limit for employed people

34. As the second step toward the alignment of the upper earnings limit with that applicable to employers, the Department recommends that, from 1 January 2011, the upper earnings limit for employed people should increase from £79,872 per annum to £91,884 per annum. For people paid weekly, this means an increase from £1,536 to £1,767 per week. For people paid less frequently than weekly, this means an increase from £6,656 to £7,657 per month.

2011 upper earnings limit for employers

35. The Department recommends that, from 1 January 2011, the upper earnings limit for the employers' contribution be increased by approximately 2.9%, from £117,468 per year to £120,900 per year. For people paid weekly, this means an increase from £2,259 to £2,325 per week. For people paid less frequently than weekly, this means an increase from £9,789 to £10,075 per month.
36. The effect of the proposed new upper earnings limit on people who pay a contribution at the new upper earnings limit is as follows:

Maximum 2011 contributions (2010 in brackets)			
Weekly Earnings	Contributions per week		
	Employer	Employee	Total
	6.5%	6.0%	12.5%
	(6.5%)	(6.0%)	(12.5%)
Upper Earnings Limit	£2,325	£1,767	
	(£2,259)	(£1,536)	
Maximum payable	£151.12	£106.02	£257.14
	(£146.84)	(£92.16)	(£239.00)

Number of contributors paying at upper earnings limits

37. In 2010, with an upper earnings limit of £79,872 per year, there were 5.3% of employed persons and 16% of self-employed persons paying on earnings at or above that level.
38. In 2010, with an upper earnings limit of £117,468 per year for employers, contributions were being paid at or above that level of earnings in respect of 2.3% of employees.

2011 lower earnings limit for employed people

39. The Department recommends that the lower earnings limit be increased from £114 per week to £117 per week. The corresponding monthly limit would be £507.
40. The effect of the foregoing changes on a contribution at the lower earnings limit is as follows:

Minimum 2011 contributions (2010 in brackets)			
Weekly Earnings	Contributions per week		
	Employer	Employee	Total
	6.5%	6.0%	12.5%
	(6.5%)	(6.0%)	(12.5%)
Lower Earnings Limit			
£117	£7.60	£7.02	£14.62
(£114)	(£7.41)	(£6.84)	(£14.25)

2011 upper and lower earnings limit for self-employed people

41. As the second step toward the alignment of the upper earnings limit with that applicable to employers, the Department recommends that the upper earnings limit for self-employed persons be increased from 1 January 2011 from £79,872 to £91,884 per year.
42. The effect of the proposed new upper earnings limit on self-employed people who pay a contribution at the upper earnings limit is as follows:-

Maximum 2011 contributions (2010 in brackets)

Annual earnings from self-employment	Contributions per week
	10.5%
£91,884 or more	£185.53
(£79,872 or more)	(£161.28)

43. Self-employed people who have applied to pay earnings related contributions, and whose earned income from self-employment was less than £91,884 per year, will pay less than the maximum contribution.
44. The proposed increase in the lower earnings limit from £114 to £117 per week would mean that the lower annual earnings limit for self-employed persons in 2010 would be increased from £5,928 to £6,084 (£117 x 52). The minimum self-employed (Class 2) contribution in 2011 would be £12.28 per week (£11.97 in 2010).

2011 upper and lower income limit for non-employed people

45. As the second step toward the alignment of the upper income limit with that applicable to employers, the Department recommends that the upper income limit for non-employed persons be increased from 1 January 2011 from £79,872 to £91,884 per year.
46. As with the self-employed, non-employed contributors are liable to pay non-employed, Class 3 contributions, at the maximum rate unless application is made to the Department and authorisation given for the release of the relevant information by the Director of Income Tax. This allows an income-related contribution to be calculated.
47. There are two categories of non-employed contributions:
 - (i) Full percentage rate contributions to cover social insurance, health service and long-term care insurance liabilities. This is the rate of contribution that non-employed adults under the age of 65 are liable to pay, based on their personal income. The contribution rate is 9.9% of

income, after the deduction of an allowance, up to the upper income limit;

- (ii) Specialist health insurance and long-term care insurance contributions. These contributions, which are payable by people aged 65 and over, go towards funding the specialist health insurance scheme and the long-term care insurance scheme. The contribution rate is 2.9% of income, after the deduction of an allowance, up to the upper income limit.
48. A small number of non-employed contributors aged between 60 and 65 have a preserved right to continue paying non-employed contributions at the reduced rate of 4.2% of income. This concessionary rate closed to new entrants from 1 January 2007. Consequently, the number of non-employed people paying the reduced contribution rate has since been decreasing and will reduce to zero by no later than 31 December 2011, as all such contributors will have reached 65 by that time.
49. The Department recommends that the lower income limit at which non-employed contributions become payable be increased from £14,820 per year to £15,210 per year from 1 January 2011.

Non-employed person's allowance

50. From 2010 the Department introduced an allowance for non-employed people, which is subtracted from their annual income figure with liability being calculated on the balance. The Department recommends increasing the allowance from £6,290 to £6,451.
51. The following table shows the minimum and maximum weekly contributions payable in 2011 by non-employed people. People with income at some point between the upper and lower income limits will pay pro-rata.

2011 non-employed weekly contributions (2010 in brackets)

Annual Income	Full rate (under 65)	Specialist health and long- term care only (over 65)
	9.9%	2.9%
	(9.9%)	(2.9%)
Less than £15,210	zero	zero
(less than £14,820)	(zero)	(zero)
£15,210	£16.67	£4.88
(£14,820)	(£16.24)	(£4.76)
£91,884	£162.65	£47.64
(£79,872)	(£140.09)	(£41.04)

Voluntary contributions

52. As shown above, where a non-employed person's annual income is below £15,210, that person will be exempted from the payment of contributions. However, this could affect old age pension entitlement. A voluntary contribution which counts towards old age pension can be paid by or on behalf of non-employed people, resident in Guernsey and under pension age, with personal income below the lower income limit.
53. The voluntary contribution in 2010 is £16.24 per week. The rate is calculated by applying the social insurance element of the non-employed contribution rate, being 5.7% of the total 9.9%, to the lower income limit. With a proposed lower income limit of £15,210 per annum in 2011, the voluntary contribution will increase to £16.67 per week.

Overseas voluntary contributions

54. People living outside of the Island are able to pay contributions in order to maintain their entitlement to old age pension. The rate payable in 2010 is £77.26 per week for the non-employed and £85.40 for the self-employed. It is recommended that, from 1 January 2011, the overseas voluntary contribution should be increased in line with the general 2.9% increase. This means that from 1 January 2011 the voluntary overseas contributions would rise from £77.26 to £79.50 per week for non-employed people and from £85.40 to £87.88 per week for self-employed people.

Special (minimum) rate Class 3 contributions

55. A special rate non-employed contribution is payable by insured persons who would normally rely upon employed contributor's employment for their livelihood, but have a small gap in their record where they were neither employed nor receiving an unemployment contribution credit. The rate of this contribution is aligned with the rate of the voluntary contribution. The special rate Class 3 contribution would, therefore, be £16.67 per week in 2011.

Actuarial review update

56. In the 2009 benefit uprating report the Department explained how it was bringing forward by 2 years the actuarial reviews of the Guernsey Health Service Fund and the Long-term Care Insurance Fund so that together with the Guernsey Insurance Fund, all 3 funds are reviewed at the same time and remain in phase with each other moving forwards.
57. Although the actuarial review of the 3 funds is underway, it is running late and as a result, the 5 year report on the Guernsey Insurance Fund will be presented together with a 1 year addendum. The reports on the other 2 funds will now be for 4 years, not 3.

Estimated operating surplus/deficit on Guernsey Insurance Fund

58. Taking into account all of the foregoing including the proposed revised rates of benefits, for the Guernsey Insurance Fund, it is estimated that:

- (1) there will be an operating deficit in 2010 in the order of £6.13m; and
- (2) there will be an operating deficit in 2011 in the order of £9.37m.

The estimated operating deficit in 2011 will only just be covered by investment income. The long-term strategy is to draw down the capital value of the Guernsey Insurance Fund in order to moderate the contribution rates that would otherwise be required on a pay-as-you-go basis as the full effects of the demographic ageing are felt. But the current operating deficit on the Fund, and those of the next 2 years are earlier and deeper than forecast and this is of significant concern to the Department.

PART II
HEALTH SERVICE BENEFITS

59. The health service benefits and administration, costing £34.32m in 2009, were financed by £33.50m from contributions allocated to the Health Service Fund and £4.02m from the States' grant from general revenue. There was an operating surplus, before investment income, of £3.20m.

Medical Benefit Grants

60. The total benefit expenditure on consultation grants in 2009 was £3.53m. This represented an increase of around 1.8% on the 2008 cost. The consultation grants remained unchanged at £12 towards a consultation with a doctor and £6 towards a consultation with a nurse.
61. The Department will not be recommending any change in the level of the consultation grants for 2011.

Pharmaceutical Service

62. Prescription drugs cost a total of £15.66m in 2009, before netting off the prescription charges paid by patients. This was an increase of 5.1% over the previous year.
63. The total cost to the Health Service Fund of the drugs dispensed was reduced by £1.64m collected in prescription charges.
64. The number of items prescribed under the pharmaceutical service increased by 4.4% in 2009 to 1.35 million items. Despite the increase in items prescribed, the Department is pleased that there has only been a modest increase in costs.

Prescription charge

65. The prescription charge for 2010 is £2.90 per item. For a number of years the States have approved annual increases of 10p in the charge. The Department recommends the same increase this year, with a charge of £3.00 per item effective from 1 January 2011.

Specialist Health Insurance Scheme

66. The cost of the specialist health insurance scheme, which funds the services provided through the Medical Specialist Group, was £13.26m in 2009 and is also expected to cost £13.26m in 2010. This is due to the fact that although there was an increase in the average number of full-time consultants, there was a compensatory reduction in the contract price based on the negative 2009 RPI.
67. The contract with the Guernsey Physiotherapy Group cost £1.72m in 2009 and is also expected to cost £1.72m in 2010. This is due to the fact that although there was an increase in the average number of full-time physiotherapists and assistants, there was a compensatory reduction in the contract price based on the negative 2009 RPI.

Costs of visiting medical consultants and travel grants for off-island treatment

68. Specialist medical care for Guernsey and Alderney residents is partly financed by the Department, partly by the Health and Social Services Department (HSSD) and partly by private patients or their insurers. As a general statement, the Department finances on-island specialist medical treatment and the HSSD finances off-island specialist treatment. The on-island treatment is provided through the specialist health insurance scheme, which is a benefit provided from the Guernsey Health Service Fund. The off-island treatment is provided by contracts which the HSSD has with UK healthcare providers, such as the Southampton Hospitals.
69. There are a number of exceptions to the general rule regarding the on-island and off-island divide. One example is that psychiatry is provided on-island by consultants employed directly by the HSSD. Another exception is that UK consultants who visit Guernsey to treat patients at the Princess Elizabeth Hospital are paid under contracts which they, or their health authority, have with the HSSD.
70. The current contracts which the HSSD has with visiting UK specialists cost approximately £600,000 in 2009. The Department believes that there is merit in moving these costs from the HSSD general revenue budget to the Guernsey Health Service Fund, which is controlled and administered by the Department. This would be consistent with the general principle of on-island specialist care being financed from the Guernsey Health Service Fund. It will also assist

rational decision making regarding the cost of bringing over consultants versus the cost and inconvenience of sending patients off-island. However, there is insufficient surplus in the Guernsey Health Service Fund to make this move in 2011 and, as the Department is not recommending any change in the contribution rates, it will defer this move until such time as the Fund can accommodate the increased costs. This will also allow for the actuarial review of the Guernsey Health Service Fund to be completed as explained in paragraph 56.

Transfer of Travelling Allowance Grant from Guernsey Insurance Fund to Guernsey Health Service Fund

71. Where arrangements can be made for UK consultants to treat patients in Guernsey, this is likely to be easier and less stressful for patients. It avoids the inconvenience and the cost of travelling to a UK hospital. The patient's own travel costs are met by the Department under the Travelling Allowance Grant, but patients usually incur further costs including those of an accompanying family member or friend.
72. Although it is advantageous to the patients and their families to be treated in Guernsey by visiting UK specialists, and also saves on the Department's Travelling Allowance Grant expenditure, there is currently no mechanism of paying all or part of those savings across to HSSD to help finance the current contracts with the visiting specialists.
73. The Travelling Allowance Grant is a benefit provided under the Social Insurance Law, which today appears anomalous as it is a health benefit and would sit better as a benefit of the Health Service Law. The fact that the grant is not so placed is simply a result of history in that it preceded the Health Service Law.
74. Travelling Allowance Grants in 2009 incurred a cost of £2.06m to the Guernsey Insurance Fund of which £0.75m related to emergency flights. The HSSD has, with effect from 1 July 2010, introduced a system whereby clinicians have been asked to provide prospective information concerning the need for an air charter. In addition, the HSSD is taking steps to introduce a policy concerning the utilisation of air charters.
75. To further the integration of the social security-financed healthcare within its mandate, the Department recommends transferring the Travelling Allowance Grant provisions from the Social Insurance Law to the Health Service (Benefit) Law. This will also require re-apportionment of the social security contributions applied between the Guernsey Insurance Fund and the Guernsey Health Service Fund, so that income, as well as expenditure, is appropriately transferred between the two Funds. The opportunity will also be taken to up-date the provisions of the legislation which provides the Travelling Allowance Grants.

Pilot programme for mental health service in primary care practices

76. As referred to in paragraph 19 of this report, the States have approved an amendment to legislation (Billet d'Etat XV of 2010) which, when it comes into force, will enable the Department to commission pilot programmes to test the merits of new benefits under the Health Service Law.
77. As soon as the legislation comes into effect, which is hoped to be by the end of 2010 or early 2011, the Department intends to use the new provision to commission from the HSSD, a mental health service based within primary care medical practices. The service will provide psychological support and therapy for the early intervention of mild to moderate mental health problems.
78. The detail of the service to be supplied under the pilot programme has been proposed by professional staff of the Health and Social Services Department. The pilot programme will comprise 5 therapists employed by or contracted to the HSSD. Three of the therapists will be psychological well-being practitioners (low-intensity therapists). There will be 1 cognitive-behavioural therapist and 1 clinical psychologist (both being high-intensity therapists). The clinical psychologist will lead the service.
79. Referral to the service will be from General Practitioners and an estimated 300 referrals will be received per year.
80. The cost of the pilot programme is £265,000 per year in 2010 terms. The Department intends to run the pilot programme for 2 years, with evaluation starting at the end of the first year. During the second year of operation, and informed by the evaluation, the Department will either develop proposals to convert the pilot programme into a permanent benefit, adjusted as necessary in the light of experience, or decide to terminate the pilot programme at the end of 2 years without replacement. The Department, however, believes that there is great potential in this initiative to make a positive contribution to the mental health of the community and to reduce social security costs by way of sickness benefit and supplementary benefit.

PART III
LONG-TERM CARE INSURANCE

81. The Long-term Care Insurance Scheme pays benefits to assist with fees in residential and nursing homes. The Department is recommending increases of 2.9% in the benefit rates.
82. Contribution income to the Long-term Care Insurance Fund was £16.89m in 2009. The Fund no longer receives a grant from General Revenue. With benefit and administration expenditure of £14.02m for the year, the Fund had an operating surplus of £2.87m.

Co-payment by person in care

83. It is a condition of entitlement to benefit under the long-term care insurance scheme that the person in care should make a co-payment. The 2010 co-payment is £165.62 per week. The Department recommends a co-payment of £170.45 per week from 3 January 2011.
84. It should be noted that the co-payment to the long-term care insurance scheme also sets the level of fees to be charged for accommodation in the States-run homes including the Castel and King Edward VII hospitals, Maison Maritaine and Longue Rue House as well as the long-stay beds in the Mignot Memorial Hospital, Alderney.

Nursing care benefit

85. The maximum nursing care benefit is currently £685.44 per week. The Department recommends that it should be increased to £705.32 per week from 3 January 2011.

Residential care benefit

86. The maximum residential care benefit is currently £367.15 per week. The Department recommends that it should be increased to £377.79 per week from 3 January 2011.

Respite care benefit

87. Persons needing respite care in private sector residential or nursing homes are not required to pay a co-payment. The long-term care fund pays instead. This is to acknowledge the value of occasional investment in respite care in order to allow the person concerned to remain in their own home as long as practicable. It also acknowledges that persons having respite care also continue to bear the majority of their own household expenditure. The respite care benefits, therefore, are the sum of the co-payment and the residential care benefit or nursing care benefit, as appropriate. The Department, therefore, recommends a nursing care respite benefit of up to £875.77 per week and a residential care respite benefit of up to £548.24 per week from 3 January 2011.

New rate of benefit for Elderly Mental Infirm residents

88. The Department is recommending the introduction of a new rate of long-term care benefit to apply to residents of registered residential homes who have substantial additional care needs by reason of elderly mental infirmity.
89. For some time, the Department has heard from the Health and Social Services Department, from its professional staff and from the owners and managers of care homes as to the particular care needs of elderly mental infirm (EMI)

patients. Depending on the degree of mental infirmity, the care needs can be very intense and in cases where the resident has good mobility there is a need for constant supervision.

90. Furthermore, the behavioural aspects of higher levels of mental infirmity and dementia can be distressing to fellow residents and visitors of care homes. It is understandable that, generally, the managers of residential care homes will seek to move a resident on to a nursing home or hospital placement when the degree of mental infirmity becomes pronounced. Such referrals to nursing homes are sometimes for lack of any reasonable alternative rather than an optimal solution.
91. With an ageing population, the number of people suffering from mental infirmity will continue to increase. The Methodist Homes for the Aged has recognised this inevitability and, both nationally and locally, has developed a model of care for residents with such needs. The opening of Maison de Quetteville in October 2009 has been a major advance in Guernsey. The Department applauds the Methodist Homes for the Aged in providing 29 beds of the highest quality specifically for residents with mental infirmity.
92. Maison de Quetteville is a registered residential home, not a nursing home. Consequently, its residents are entitled to the residential rate of long-term care benefit, not the higher nursing rate. The combination of the standard co-payment from the individual and the residential rate of benefit is insufficient to meet the running costs of the home. This has led to the home seeking additional top-up payments from its residents during 2010 and until such time as the States may approve a higher rate of benefit for this type of care.
93. Having been provided with financial information in respect of the operation of Maison de Quetteville, the Department has concluded that a rate of long-term care benefit for EMI residents of £497.77 per week should apply from 3 January 2011. Together with the proposed co-payment of £170.45 per week, this will give fee income of £668.22 per week. In addition, there is a requirement for the Department to introduce an EMI respite benefit for the reasons explained in paragraph 87. The Department is proposing an EMI respite benefit of up to £668.22 per week from 3 January 2011.

Additional cost of EMI rate of benefit

94. The proposed rate of £497.77 per week for EMI residents is approximately £120.00 per week more than the proposed 2011 rate for residential care, that being £377.79 per week. In order to estimate the aggregate additional cost to the Fund of introducing the new rate of benefit an estimate has to be made of the number of people in residential homes to whom the benefit would apply.
95. In addition to the 29 residents of Maison de Quetteville, the new rate of benefit would be available to people in other residential homes throughout Guernsey and Alderney. This would be conditional on the residents being assessed by the

Health and Social Services Department's Needs Assessment Panel as being in need of EMI care and, importantly, on the home providing the appropriate level of care in accordance with standards, specific to dementia care, set by the Health and Social Services Department.

96. For the purposes of estimating the additional cost to the Fund, the Department is assuming that in addition to all of the 29 residents of Maison de Quetteville, up to 20% of residents in other residential homes in Guernsey and Alderney may be eligible for the new rate of benefit. Excluding Maison de Quetteville, a total of 336 residential care benefits were in payment at the end of 2009. The estimated number of cases for which the new rate of benefit may apply is therefore 97 (29 plus 20% of 336).
97. With the proposed new benefit being approximately £120.00 more than the standard residential rate, it is therefore estimated that its introduction will add £0.61m per year to benefit expenditure from the Long-term Care Insurance Fund (£120.00 x 52 weeks x 97 beds).
98. While there is no immediate need to increase the rate of contributions to the Fund, the annual operating surplus has reduced rapidly in recent years through the coming into operation of new, and much needed care homes. The introduction of the EMI rate of benefit will reduce that surplus and make a requirement for an increase to the contribution rate likely in the near future.

PART IV

NON-CONTRIBUTORY SERVICES FUNDED FROM GENERAL REVENUE

99. For the non-contributory benefits contained in this part of the report, which are funded entirely from general revenue, the Department recommends general increases of 2.4%, with some small variations for roundings.

Supplementary benefit

100. Supplementary benefit expenditure amounted to £15.88m in 2009. The expected outturn for 2010 is £17.24m.
101. At 5 June 2010, there were 2,259 active supplementary benefit claims as set out in the table below.

Classification	Active claims at 5 June 2010
Pensioners	*722
Incapacitated	533
Single parent	398
Jobseeker	317
Disability	209
Incapable of self-support	52
Carer	19

Pregnant	7
Prisoner's spouse	1
Partner in hospital	1
Total (excluding dependants)	2,259

* Includes 150 pensioners covered for their medical expenses.

102. In 2009, the Department was financing, from unspent balances, 2 temporary members of staff to cope with the extra work in the Supplementary Benefit Section arising from the higher levels of unemployment. The Department has, for many years, kept staffing levels as low as reasonably practicable in order to discharge its obligations. As regards unemployment benefit and supplementary benefit jobseekers, the Department has been staffed for an unemployment level of approximately 200. With more than 400 people unemployed in 2009, it was very clear that temporary staff needed to be appointed.
103. In advance of the budget for 2010, representations were made through two meetings with the Treasury and Resources Department at staff level and through one subsequent meeting of the members of both Departments regarding the necessity of continuing to finance these temporary staff throughout 2010 and until the level of unemployment fell away. The Treasury and Resources Department noted that there were no unspent balances to carry forward into 2010 and to use for this purpose. However, the necessary budget was not forthcoming. The Department considered proposing an amendment to the 2010 budget but decided against that approach, opting instead to strive to operate within the cash limit.
104. The experience in 2010 has now become critical. Unemployment is running at a higher rate than in 2009, being just under 500. To date, the expected reduction in the summer months has not been seen. Staff who, at the best of times, have a stressful job now have unmanageable workloads. This has led to deterioration in service to unemployed people and, worryingly, a reduction in checks on the integrity of claims. With the priority being to pay the benefits due, insufficient time is given to interviewing people about their job-finding efforts and assisting that endeavour. The consequence is that formula-led benefit expenditure increases for want of investment in the capped administrative budget. The Department considers this to be a wholly unsatisfactory situation. The Department understands that the Treasury and Resources Department has agreed to consider this issue as part of the budget process later this year and is, therefore, encouraged that this may result in there being sufficient budget for the employment of 2 temporary members of staff for 2011.

Review and reform of the Supplementary Benefit scheme

105. In the 2009 benefit uprating report, the Department commented on the future shape of social welfare for Guernsey and Alderney. The Department explained

that during 2008 presentations had been received on Guernsey Supplementary Benefit, Jersey Income Support and UK Tax Credits and that, subsequently the Social Security Department and the States Treasury and Resources Department had agreed that the way forward was for Social Security to commence work on modernising the existing supplementary benefit scheme. In doing so both Departments agreed some guiding principles, which included the provision of help for low income workers and their dependents, much greater provision of work incentives and a rationalisation of various means-tested benefits.

106. In addition, a report on the Housing Department's rent and rebate scheme was considered by the States in 2009 (Billet d'Etat XXVII of 2009). Amongst other things, the report pointed out that a rent rebate is effectively a means-tested benefit and explained that the Social Security Department had agreed, in principle - and subject to States' approval - to assume responsibility for assisting low income tenants with the cost of social housing rents, thereby negating the need for a separate rent rebate scheme. As a result, the Housing Department agreed not to make any major changes to the rent rebate scheme pending the proposed transfer of responsibility to the Social Security Department.
107. As there is no spare capacity within the 2010 capped administrative general revenue budget to fund the project work required to formulate proposals for modernising the supplementary benefit scheme, the Department is most grateful to the Housing Department, which agreed to fund 1 project officer post throughout 2010 through the Corporate Housing Programme budget. This has enabled the Department to make some progress but has limited the scope of the project to the 3 key areas of work incentivisation, rent rebate integration and young adults in education as outlined in paragraphs 109 to 112.
108. This modernisation project is a top priority for the Department and it has made a commitment to report to the States with its proposals before the end of 2011. In addition to the 3 key areas identified, the Department also intends to undertake work to identify areas of legislation that require updating, such as the classification relating to people with disabilities, and to review the extent of medical cover provided for people in receipt of supplementary benefit.

Work incentivisation

109. While the current supplementary benefit scheme provides support for some people on low wages, it was not originally designed as an "out of work" benefit. As a result, there is little or no incentive for working age people claiming supplementary benefit to improve their financial circumstances by returning to work or to maximise their earning capacity. As a result, the existing earnings disregard of £30 per week does little to incentivise people to return to work. Increasing the disregard to, say, £50, or £100 per week, while being of benefit to the individual, would not necessarily encourage a transition from benefit into substantial employment. The solution is more complex. However, the proposed change to the Social Insurance (Guernsey) Law, 1978 outlined in paragraph 25

will go some way to improving access to work incentives while the Department continues to formulate its proposals for modernising the supplementary benefit scheme.

110. To increase the Department's knowledge in the area of work incentivisation and to inform the modernisation project, Professor Dan Finn visited the Island to share his expert knowledge of welfare to work strategies from the UK, Australia, the United States, the Netherlands and other countries. Dan Finn is Professor of Social Inclusion at the University of Portsmouth and Associate Director at the Centre for Economic and Social Inclusion. During his visit the Department gained a far greater understanding of successful strategies and how to implement them and hopes to select the best strategies that are relevant to Guernsey in modernising the supplementary benefit scheme.

Rent rebate integration

111. As part of the overall package of measures to modernise the supplementary benefit scheme, the Social Security Department and the Housing Department are working together to formulate the strategy whereby rent rebates for social housing tenants can be subsumed within the new supplementary benefit scheme. The Department will report to the States before the end of 2011 with its proposals on this issue.

Young adults in education

112. Parents of any student aged 16 to 19, attending a full-time course of at least a year in length, can apply for an educational maintenance grant from the Education Department. The educational maintenance grant is means-tested on the parents income and is intended as a contribution towards the cost of keeping the student in full-time education after school leaving age. However, under current supplementary benefit rules, young people do not qualify for benefit if they are in full-time education, which means that young people who are unable to continue living in the family household, are incentivised to leave full-time education in order to qualify for financial assistance through the supplementary benefit scheme. As a result, the Social Security Department and the Education Department have agreed to review the provision of financial support for young adults in on-island education and to incorporate any changes to the way these students should be assisted through supplementary benefit in the Department's 2011 proposals for modernising the supplementary benefit scheme.

Supplementary benefit requirement rates

113. The Department recommends supplementary benefit requirement rates, to take effect from 7 January 2011, as follows:

(a)

Long-term supplementary benefit (after payment of short-term rates for 6 months)	2011	2010
Married couple	£223.16	£217.91
Single householder	£154.42	£150.78
Non-householder:		
18 or over	£119.84	£117.04
*16 - 17	£65.03	£79.31
Member of a household -		
18 or over	£119.84	£117.04
16 - 17	£101.50	£99.12
12 - 15	£62.79	£61.32
5 – 11	£45.50	£44.45
Under 5	£33.60	£32.83

* varied in relation to single parents and significant disability see paragraph 116

(b)

Short-term supplementary benefit rates (less than 6 months)	2011	2010
Married couple	£180.88	£176.61
Single householder	£125.58	£122.64
Non-householder:		
18 or over	£95.62	£93.38
*16 - 17	£65.03	£79.31
Member of a household -		
18 or over	£95.62	£93.38
16 -17	£81.20	£79.31
12 - 15	£50.26	£49.07
5 – 11	£36.47	£35.63
Under 5	£26.60	£25.97

* varied in relation to single parents and significant disability see paragraph 116

A rent allowance, on top of the above short-term or long-term rates, will apply to people living in rented accommodation.

114. In the 2009 benefit uprating report, the Department expressed its concern regarding the level of supplementary benefit available to claimants under 18 years of age and, following a recommendation, the States agreed to the removal of the long-term rate of benefit payable to 16 and 17 year old non-householders. In this context a non-householder means someone who has left full-time education and is living with immediate family, friends or relatives.

115. The Department is still concerned by the level of supplementary benefit payable to 16 and 17 year old non-householders, especially in relation to jobseekers. The Department is recommending a general increase of 2.4% which, if also applied to 16 and 17 year old non-householders, would increase the weekly sum payable to £81.20. While the Department is comfortable with paying this sum into a supplementary benefit household where a 16 or 17 year old is still in full-time education, it is concerned that some young people are incentivised to leave education because they can receive their own income of approximately £80 per week and that, for some, the rate payable acts as a disincentive to finding work.
116. The Department will continue to discuss its concerns regarding youth unemployment with the Social Policy Group, but in the meantime is recommending that, from 7 January 2011 a new requirement rate of £65.03 per week be introduced for 16 and 17 year non-householders who are not in full-time education. The Department is not recommending the application of retained rights for existing 16 and 17 year non-householders on benefit, but will utilise Section 2 of the Supplementary Benefit (Implementation) Ordinance, 1971 to enhance the rate payable to 16 and 17 year non-householders who qualify for benefit by reason of a disability or by being a single parent or are at risk of falling into the category of children in need, so that these groups of young people receive the same rate payable to 16 and 17 year olds living as part of a supplementary benefit household. At the end of April 2010 there were 39 16 and 17 year old non-householders in total receiving supplementary benefit of which 7 qualified by reason of a disability, 3 qualified as single parents, 6 were sick and 23 were jobseekers.
117. At the September 2009 States meeting (Billet d'Etat XXIV 2009) the States approved the amendment of the Supplementary Benefit Law so that single parents (and prisoner's spouses and cohabitantes) could only claim supplementary benefit if their youngest dependant is below the age of 12. As a result, since 8 January 2010, single parents with older children (12 and over) wishing to claim supplementary benefit are classified as jobseekers and must actively seek work.
118. At the time of implementing this change there were 62 single parents in this category receiving supplementary benefit. All 62 were given appointments with an experienced employment advisor to discuss their circumstances and assess their employment options. As a result, half continued to classify for supplementary benefit for reasons such as long-term illness or as a result of caring responsibilities. However, the other half were reclassified as jobseekers and the table overleaf shows the outcomes gained during the first half of 2010. A few other single parents with younger children have also taken advantage of the service being offered through the job centre and are expected to move into employment in due course. The Department will continue to provide the advice and support that is required and will provide a further update in next year's benefit uprating report.

Single parent jobseeker outcomes first 6 months of 2010

Number of single parents with older children (12 & over) at 8/1/10	62
Less number with long-term illness or caring responsibilities	31
Number reclassified as jobseekers	31
Moved into full-time work	1
Started working more than 20 hours per week	3
Completed periods of temporary work towards employment	3

119. The Department believes that the strategy it has adopted for single parents with older children (12 and over) is the appropriate one moving forwards as it encourages self support and less reliance on State benefits for those that can work. However, the Department is aware that other jurisdictions have already implemented, or are considering, policy changes in relation to the introduction of compulsory work focused elements for single parents with younger children. For example, in the UK since October 2009, single parents on benefit where the youngest child was 10 or over were expected to engage in work or work related activity and from October 2010 this changes again, when the lower age limit is adjusted downwards to 7 and over.
120. The Department is keen to implement a similar strategy, when resources are available, that will make it compulsory for single parents with younger children (7 and over) to engage in regular work focused meetings with an employment advisor as part of a work readiness programme and hopes to report on progress in this area in next year's benefit uprating report.

Benefit limitation - community

121. The benefit limitation, currently £395.00 per week, is the maximum level allowed for the combination of supplementary benefit and income from other sources, excluding family allowances. The Department recommends an increase in line with the general increase in the non-contributory benefits, taking the benefit limitation to £405.00 per week from 7 January 2011.

Benefit limitation - residential homes

122. Notwithstanding the existence of the long-term care insurance scheme, there needs to remain a benefit limitation applicable to a person residing in a residential home who does not satisfy the residence requirements for long-term care insurance and may, therefore, need to rely on supplementary benefit assistance. The benefit limitation is currently £463 per week. The Department recommends an increase to £474.00 per week from 7 January 2011. It should be noted that this particular benefit limitation, and that in the following paragraph, are very seldom called into effect.

Benefit limitation - nursing homes and Guernsey Cheshire Home

123. Being necessary for the reason explained above, the Department recommends that the benefit limitation applicable to a person residing in a nursing home or

the Guernsey Cheshire Home be increased from £664 per week to £680 per week from 7 January 2011.

Personal allowance for residents of residential or nursing homes

124. The Department did not recommend any increase in the rate of the personal allowance in the 2009 benefit uprating report. As a result, during 2010 the personal allowance remained at the level of £26.50 per week. However, the Department recommends that the personal allowance be increased to £27.13 per week from 7 January 2011.

Personal allowance for Guernsey residents in UK hospitals and care homes

125. The Health and Social Services Department pays for Guernsey and Alderney residents to be placed in UK hospitals and specialized institutions if their mental or physical health needs cannot be met on-island. While the Health and Social Services Department meets the cost of accommodation and care, residents are expected to pay from their own resources for items of personal expenditure. Residents who cannot afford these things can apply to the Social Security Department for a personal allowance.
126. There is a need for this particular personal allowance to be higher than the rate which applies in Guernsey residential and nursing homes, because the people living temporarily off-island tend to be a much younger age group, more active and with more opportunities for using a personal allowance in the course of their supervised activities and outings.
127. The Department did not recommend any increase in the rate of the personal allowance in the 2009 benefit uprating report. As a result, during 2010 the personal allowance remained at the level of £44.60 per week. However, the Department recommends that the personal allowance be increased to £45.70 per week from 7 January 2011.

Supplementary Fuel Allowance

128. A supplementary fuel allowance is paid from general revenue for 27 weeks from the last week in October until the last week in April of the year following. The fuel allowance was £22.70 per week for the 2009 to 2010 period.
129. Following a recommendation in the 2009 benefit uprating report, the States agreed that as the price of fuel, light and power decreased in the year to June 2009, the rate payable should be held at the 2009 level of £22.70 per week. However, the Department would have regard to the 2 year movement in prices when recommending the level of fuel allowance for the winter of October 2010 to April 2011.
130. From the 2 years to June 2010, the cost of fuel, light and power has increased by 8.7%. Accordingly, the Department is recommending an 8.7% increase in the

supplementary fuel allowance, taking it to £24.67 per week for the winter of October 2010 to April 2011.

131. The fuel supplement will cost in the region of £860,000 over each 27 week payment period referred to above. However, the Department has identified the winter fuel allowance as an issue that might be reviewed as part of the supplementary benefit modernisation project. In particular, the Department is keen to explore whether its flat rate for all strategy still holds good given that claimants' fuel bills vary depending, in part, on whether their accommodation is energy efficient.

Cost of proposals for Supplementary Benefit

132. The expected outturn for supplementary benefit expenditure for 2010 is £17.24m. It is estimated that benefit expenditure in 2011, taking account of the above proposals and allowing for current trends, particularly in relation to jobseekers and incapacity, will increase by £0.36m to £17.60m.

Family Allowances

133. Family allowance is a universal benefit which is paid to all families with qualifying children. Following a recommendation in the 2009 benefit uprating report, the States agreed, given the negative RPI in June 2009, to hold family allowance in 2010 at the 2009 level of £14.60 per week per child. As a result, family allowances expenditure in 2009 amounted to £9.05m and the budget for 2010 is also £9.05m.
134. The Department recommends that family allowance be increased to £15.00 per week from 3 January 2011. It is estimated that expenditure on family allowances in 2011 will be approximately £9.27m.

Attendance and Invalid Care Allowances

135. In the 2009 benefit uprating report, the Department provided an update on its review into the adequacy and effectiveness of attendance allowance and invalid care allowance. In particular, the Department highlighted its concern that carers wishing to claim invalid care allowance were being adversely affected by the strict earnings limitation, which in 2010 prevents a person in receipt of invalid care allowance earning more than the lower earnings limit of £114.00 per week. Under the proposals in this report, the lower earnings limit in 2011 will be £117.00 per week or £507 per month. In addition, the Department highlighted the fact that the review had identified a need to actively market the two allowances and increase the level of information available to healthcare professionals.
136. The review has continued through the first half of 2010 and has involved the Department in a consultation exercise with disability organisations. The

Department is currently collating its findings with a view to submitting a report to the States before the end of 2010.

137. Pending the outcome of that States report the Department is recommending that attendance allowance and invalid care allowance be increased with effect from 3 January 2011 as shown below:-

	2011	2010
Attendance Allowance - weekly rate	£89.81	£87.71
Invalid Care Allowance - weekly rate	£72.59	£70.91
Annual income limit for both allowances	£83,000	£81,000

138. The annual income limit is the upper limit of income that a family may have, while still being entitled to receive either attendance allowance or invalid care allowance.
139. Benefit expenditure on attendance and invalid care allowances in 2009 was £2.74m. The estimated budget for 2010 is £3.2m, which includes an increase expected as a result of actively marketing the two allowances. It is estimated that the Department's proposals set out in paragraph 137 will increase expenditure in 2011 by £240,000 to £3.44m. However, this estimate may need to be revised following States debate on the Department's separate States report on attendance allowance and invalid care allowance, which is due before the end of 2010.

Community and Environmental Projects Scheme

140. The Department administers the Community and Environmental Projects Scheme (CEPS), which offers short-term employment opportunities for unemployed people. The Department contracts with States Works for the necessary supervision of the work teams and also for the provision of transport, equipment and tools.
141. The CEPS teams have undertaken numerous and wide ranging activities during the last year, including:
- Longue Hougue Recycling Centre
 - Fontaine waste segregation site
 - Bulk refuse collections
 - Cleaning bring bank sites
 - Furniture redistribution
 - Refurbishment of sports equipment, park seats and recycling pods
 - Clearance, preparation and planting of areas on the old town prison site
 - Refurbishment of St. Martins Scouts headquarters
 - Assisting in the walled garden at Saumarez Park for the Botanical Trust

- Internal decoration of the greenhouse(s) at Candie Gardens
- Litter picking on the headland around the tip following strong winds

142. In the 2009 benefit uprating report, the Department explained that the Environment Department was considering an application from the Social Security Department for a change of use of a glasshouse block on the Raymond Falla House site in order to develop a training centre. The change of use was approved and during the intervening period the Department has been carrying out preparation works on the site and taking steps to meet health and safety requirements, including the installation of a manually operated (break glass) fire alarm system. The Department is pleased with this development as it should open up more opportunities for people on benefit to return to work. Not only does this support States policy on maximising the Island's workforce, but by helping people return to work the Department reduces its long-term costs in terms of benefit expenditure.
143. At the May 2010 States meeting (Billet D'Etat XI of 2010) the States approved the introduction of a statutory minimum wage for adults aged 19 and over of £6.00 per hour and a young person's minimum wage for workers aged 16 to 18 of £4.25 per hour, effective from 1 October 2010. As a result, the Department is conscious that the 2010 wage rate for CEPS workers is already set at rates which are higher than the new minimum wage. Given that CEPS is a work readiness and training scheme which was set up to act as a stepping stone to employment for the unemployed and people recovering from long-term illness, the Department believes that the appropriate wage rate applicable to CEPS workers should be the statutory minimum wage rate so as not to disincentivise CEPS workers from accepting permanent employment that might be payable at minimum wage levels.
144. The hourly wages rates for the CEPS scheme are set by the Department and do not require a resolution of the States. In light of the introduction of the statutory minimum wage the Department will adjust downwards its CEPS wages rates, for new workers from 1 October 2010, to match the minimum wages rates applicable from that date. The Department will also increase the age at which the adult rate becomes payable so that it mirrors the approach taken with the statutory minimum wage. The rates will, therefore, be as set out below.

New CEPS workers	
	From 1/10/2010 & 2011
Under 19	£4.25 per hour
For 36 hours	£153.00
19 and over	£6.00 per hour
For 36 hours	£216.00

Current 2010 CEPS wage rates will apply for the duration of workers on existing contracts as set out overleaf.

Workers on existing contracts	
	2010
Under 18	£4.77 per hour
For 36 hours	£171.72
18 and over	£6.49 per hour
For 36 hours	£233.64

Free TV licences

145. In accordance with the resolutions of the States on the 2001 budget (Billet d'Etat XXIV of 2000), the Department administers a scheme to provide free TV licences for Guernsey and Alderney residents aged 75 or over and residents aged 65 or over and in receipt of supplementary benefit. Benefit expenditure under this scheme was £543,000 in 2009. The scheme is expected to cost £575,000 in 2010. The costs in 2011 will depend on the standard charge per TV licence made by the UK Department of Culture, Media and Sport.

**PART V
RECOMMENDATIONS**

146. The Department recommends:
- (i) that the Social Insurance (Guernsey) Law, 1978 be amended to allow monies to be used to provide access to the back to work benefits for any jobseeker who is an insured person;
(paragraph 25)
 - (ii) that the Social Insurance (Guernsey) Law, 1978 be amended so that the transactions costs of paying pensions and benefits to overseas destinations are passed on to the relevant beneficiaries;
(paragraphs 26 and 27)
 - (iii) that, from 3 January 2011, the standard rates of pension and contributory social insurance benefits shall be increased to the rates set out in paragraph 30 of this Report;
 - (iv) that, for employed persons, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit, from 1 January 2011, shall be £1,767, £7,657 and £91,884 respectively;
(paragraph 34)
 - (v) that, for employers, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit, from 1 January 2011, shall be £2,325, £10,075 and £120,900 respectively;
(paragraph 35)

- (vi) that, for employed persons and employers, the lower weekly earnings limit and the lower monthly earnings limit, from 1 January 2011, shall be £117 and £507 respectively;
(paragraph 39)
- (vii) that, for self-employed persons, the upper earnings limit and lower earnings limit, from 1 January 2011, shall be £91,884 per year and £6,084 per year, respectively;
(paragraphs 41 and 44)
- (viii) that, for non-employed persons, the upper and lower annual income limits, from 1 January 2011, shall be £91,884 per year and £15,210 per year respectively;
(paragraphs 45 and 49)
- (ix) that the allowance on income for non-employed people from 1 January 2011, shall be £6,451 per year;
(paragraph 50)
- (x) that the voluntary contribution from 1 January 2011, shall be £16.67 per week for non-employed people;
(paragraph 53)
- (xi) that the overseas voluntary contribution from 1 January 2011, shall be £79.50 per week for non-employed people and £87.88 for self-employed people;
(paragraph 54)
- (xii) that, from 1 January 2011, the prescription charge per item of pharmaceutical benefit shall be £3.00;
(paragraph 65)
- (xiii) that the Social Insurance (Guernsey) Law, 1978 and the Health Service (Benefit) (Guernsey) Law, 1990 be amended so that the Travelling Allowance Grant provisions are transferred to the Health Service (Benefit) (Guernsey) Law, 1990;
(paragraph 75)
- (xiv) that, from 3 January 2011, the contribution (co-payment) required to be made by the claimant of care benefit, under the long-term care insurance scheme, shall be £170.45 per week;
(paragraph 83)
- (xv) that, from 3 January 2011, nursing care benefit shall be a maximum of £705.32 per week for persons resident in a nursing home or the Guernsey Cheshire Home and residential care benefit shall be a maximum of £377.79 per week for persons resident in a residential home;
(paragraphs 85 and 86)

- (xvi) that, from 3 January 2011, elderly mentally infirm (EMI) care benefit shall be a maximum of £497.77 per week for qualifying persons resident in a residential home;

(paragraph 93)

- (xvii) that, from 3 January 2011, respite care benefit shall be a maximum of £875.77 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home and a maximum of £548.24 per week for persons receiving respite care in a residential home;

(paragraph 87)

- (xviii) that, from 3 January 2011, respite care benefit shall be a maximum of £668.22 per week for persons receiving respite care in a residential home by reason of being elderly mentally infirm;

(paragraph 93)

- (xix) that, from 7 January 2011, the supplementary benefit requirement rates shall be as set out in paragraph 113 of this Report;

- (xx) that, from 7 January 2011, the weekly benefit limitations for supplementary benefit shall be:

- (a) £405 for a person living in the community;
- (b) £474 for a person who is residing in a residential home; and
- (c) £680 for a person who is residing as a patient in a hospital, nursing home or the Guernsey Cheshire Home;

(paragraphs 121 to 123)

- (xxi) that, from 7 January 2011, the amount of the personal allowance payable to persons in Guernsey and Alderney residential or nursing homes who are in receipt of supplementary benefit shall be £27.13 per week;

(paragraph 124)

- (xxii) that, from 7 January 2011, the amount of the personal allowance payable to persons in UK hospitals or care homes who are in receipt of supplementary benefit shall be £45.70 per week;

(paragraph 127)

- (xxiii) that a supplementary fuel allowance of £24.67 per week be paid to supplementary beneficiaries who are householders from 29 October 2010 to 29 April 2011;

(paragraph 130)

(xxiv) that, from 3 January 2011, family allowance shall be £15.00 per week;

(paragraph 134)

(xxv) that, from 3 January 2011, the rates of attendance allowance and invalid care allowance and the annual income limits shall be as set out in paragraph 137 of this Report.

Yours faithfully

M H Dorey
Minister

(NB The Policy Council supports the proposed increase to the contributory and non-contributory benefits, including the move towards one rate of incapacity benefit, and it supports the proposed new rate of EMI (elderly mental infirm) benefit and efforts the Social Security Department is making to encourage people back into employment. Tentative support is also given to the principle of reducing the rate of benefit payable to 16 and 17 year old non-householders to incentivise them to remain in Education. However, this tentative support is subject to the Social Security Department mitigating any potential conflict with the new Children's Law and the development of the proposed NEET strategy (for those not in education, training or employment) at the earliest opportunity. The Policy Council is concerned about the operating deficit on the Guernsey Insurance Fund and the declining surplus on the Long-term Care Fund, which are not sustainable, but supports the principle of reviewing the contributions to these funds alongside the corporate tax review.)

(NB The Treasury and Resources Department has commented as follows.)

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

3rd August 2010

Dear Chief Minister

Social Security Department Annual Up-rating Report

The Treasury and Resources Department is pleased to note that the Social Security Department has used RPIX as the point of reference for up-rating benefits, in line with States policy. However, the Department has several concerns regarding the content of this report. Firstly, while recognising that the Social Security Department is following established precedent in the timing of the submission of its Report, the Treasury and Resources Department is of the view that the States should not be considering decisions on non contributory benefit rates in isolation from the remainder of the Budget of the States. Decisions made on this report will impact on the resources available to allocate to other Departments through the Budget process. Therefore, the Department believes that the annual Budget and the Social Security Department's up-rating of benefit and contribution rates should be considered by the Assembly at the same time in future and to that end the Department will be seeking discussions with the Social Security Department.

The Department remains concerned over recent growth in demand for and the cost of non contributory benefits, particularly Supplementary Benefit, and the pressure this puts

on General Revenue. The States has a policy of a “real term freeze on aggregate States revenue expenditure” which, despite recent interpretations, should include the formula led expenditure of the Social Security Department. Unless the increase in costs in this area is controlled it will impact significantly on the amount available to be allocated to other Departments through their cash limits.

The Social Security Department is recommending the introduction of a new rate of contributory benefit for Elderly Mental Infirm residents. While the Department is supportive of the motivation for this change in benefits, it is concerned that new rates are being introduced and some existing benefits are being increased in real terms without any sustainable means of funding them. The Department’s view is that the annual review of benefit and contribution rates should deliver changes to current benefit rates and that new benefits or substantial changes to existing benefits should only be brought forward with an identified long term funding method.

The Department notes the reference made within the Report to the responsibility of the Social Security Department in providing specialist medical treatment on island and that of the Health and Social Services Department in facilitating off-island specialist treatment. The Report highlights several instances where there are services being provided by one of these Departments where it would be more appropriately provided by the other. These anomalies seem to have developed over time and the Treasury and Resources Department considers that a detailed review should be undertaken to establish the appropriate funding source for all of these services and ensure that they are funded on a consistent basis in future.

Yours sincerely

J Honeybill
Deputy Minister

The States are asked to decide:-

V.- Whether, after consideration of the Report dated 12th July, 2010, of the Social Security Department, they are of the opinion:-

1. That the Social Insurance (Guernsey) Law, 1978 be amended to allow monies to be used to provide access to the back to work benefits for any jobseeker who is an insured person.
2. That the Social Insurance (Guernsey) Law, 1978 be amended so that the transactions costs of paying pensions and benefits to overseas destinations are passed on to the relevant beneficiaries.
3. That, with effect from 3rd January 2011, the standard rates of pension and contributory social insurance benefits shall be increased to the rates set out in paragraph 30 of that Report.

4. That, with effect from 1st January 2011, for employed persons, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit shall be £1,767, £7,657 and £91,884 respectively.
5. That, with effect from 1st January 2011, for employers, the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit shall be £2,325, £10,075 and £120,900 respectively.
6. That, with effect from 1st January 2011, for employed persons and employers, the lower weekly earnings limit, the lower monthly earnings limit shall be £117 and £507 respectively.
7. That, with effect from 1st January 2011, for self-employed persons, the upper earnings limit and lower earnings limit shall be £91,884 per year and £6,084 per year, respectively.
8. That, with effect from 1st January 2011, for non-employed persons the upper and lower annual income limits shall be £912,884 per year and £15,210 per year respectively.
9. That, with effect from 1st January 2011, the allowance on income for non-employed people shall be £6,451 per year.
10. That, with effect from 1st January 2011, the voluntary contribution shall be £16.67 per week for non-employed people.
11. That, with effect from 1st January 2011, the overseas voluntary contribution shall be £79.50 per week for non-employed people and £87.88 for self-employed people.
12. That, with effect from 1st January 2011, the prescription charge per item of pharmaceutical benefit shall be £3.00.
13. That the Social Insurance (Guernsey) Law, 1978 and the Health Service (Benefit) (Guernsey) Law, 1990 be amended so that the Travelling Allowance Grant provisions are transferred to the Health Service (Benefit) (Guernsey) Law, 1990.
14. That, with effect from 3rd January 2011, the contribution (co-payment) required to be made by the claimant of care benefit, under the long-term care insurance scheme, shall be £170.45 per week.
15. That, with effect from 3rd January 2011, nursing care benefit shall be a maximum of £705.32 per week for persons resident in a nursing home or the Guernsey Cheshire Home and residential care benefit shall be a maximum of £377.79 per week for persons resident in a residential home.

16. That, with effect from 3rd January 2011, elderly mentally infirm (EMI) care benefit shall be a maximum of £497.77 per week for qualifying persons resident in a residential home.
17. That, with effect from 3rd January 2011, respite care benefit shall be a maximum of £875.77 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home and a maximum of £548.24 per week for persons receiving respite care in a residential home.
18. That, with effect from 3rd January 2011, respite care benefit shall be a maximum of £668.22 per week for persons receiving respite care in a residential home by reason of being elderly mentally infirm.
19. That, with effect from 7th January 2011, the supplementary benefit requirement rates shall be as set out in paragraph 113 of that Report.
20. That, with effect from 7th January 2011, the weekly benefit limitations for supplementary benefit shall be:
 - (a) £405 for a person living in the community;
 - (b) £474 for a person who is residing in a residential home; and
 - (c) £680 for a person who is residing as a patient in a hospital, nursing home or the Guernsey Cheshire Home.
21. That, with effect from 7th January 2011, the amount of the personal allowance payable to persons in Guernsey and Alderney residential or nursing homes who are in receipt of supplementary benefit shall be £27.13 per week.
22. That, with effect from 7th January 2011, the amount of the personal allowance payable to persons in UK hospitals or care homes who are in receipt of supplementary benefit shall be £45.70 per week.
23. That, a supplementary fuel allowance of £24.67 per week be paid to supplementary beneficiaries who are householders from 29th October 2010 to 29th April 2011.
24. That, with effect from 3rd January 2011, family allowance shall be £15.00 per week.
25. That, with effect from 3rd January 2011, the rates of attendance allowance and invalid care allowance and the annual income limits shall be as set out in paragraph 137 of that Report.
26. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

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

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

5th July 2010

Dear Sir

EXECUTIVE SUMMARY

1. The States Assembly and Constitution Committee proposes that future reports of States Members' attendance at meetings shall relate only to meetings of the States of Deliberation and meetings of the Policy Council, States departments and committees and that attendance at sub-committees will cease to be reported.

REPORT

2. On the 28th January 2004 the States resolved, inter alia:

"That Departments and Committees shall maintain a record of their States Members' attendance at, and absence from, meetings, including sub-committee meetings and the reasons for absence given shall also be recorded.

That the records of States Members' attendance at, absence from and reasons for absence from meetings, shall be made available to the House Committee to monitor and to take such action as it sees fit within its powers and the records shall also be available for inspection by the public."*

*[*name changed on 1st August 2008 to States Assembly and Constitution Committee]*

3. The appended report which sets out statistics provided by Her Majesty's Greffier, Departments and Committees for the six months ended 30th April 2010 deviates from the States resolution in that the States Assembly and Constitution

Committee has deemed it appropriate to accede to a request that statistics relating to attendance in the States of Deliberation are also included.

4. The resolution requires that the statistics “*be available for inspection by the public*” and the practice to date has been that the details are published as an appendix to a Billet d’État. The decision to keep records of States Members’ attendance was agreed in advance of the introduction of the new system of government in May 2004.
5. In the course of the production of the first report for the period ended 31st October 2005 it became apparent that some departments had not kept records of sub-committees: consequently the first report did not include statistics relating to sub-committees. All subsequent reports have included such statistics.
6. However, almost from the outset, States Members have regularly expressed concern that the published figures do not fairly represent the full extent of work carried out by them. Some of the reasons advanced to support that view are that the statistics take no account of –
 - Constituency work;
 - Meetings other than those of departments/committees/sub-committees;
 - Networking with other States Members;
 - Public engagements;
 - Off-Island meetings.
7. A further issue relates to the differing number of sub-committees. The present return shows the distribution of sub-committees as follows –
 - 32 Education Department
 - 10 Policy Council
 - 8 Public Services Department (+ 1 joint with C.& E.)
 - 7 Treasury and Resources Department (+ 1 joint with C.& E.)
 - 6 Commerce and Employment Department (+ 2 joint as above)
 - 6 Culture and Leisure Department
 - 5 Public Accounts Committee
 - 4 Home Department
 - 4 Public Sector Remuneration Committee

8. The following do not declare any sub-committees: Environment Department, Health and Social Services Department, Housing Department, Social Security Department, Legislation Select Committee, Scrutiny Committee, States Assembly and Constitution Committee.
9. Further, there is no definition as to what constitutes a sub-committee for reporting purposes. Clearly any sub-committee constituted pursuant to Rules 16 or 16A of the Rules relating to the Constitution and Operation of States Departments and Committees is a sub-committee for this purpose. However, it is clear that some departments take a more liberal view as to what constitutes a sub-committee.
10. Two examples illustrate this point: first, the Culture and Leisure Department reports the Guernsey Sports Commission and the Friends of St James Association as sub-committees. Second, the Education Department reports all the Primary Schools Committees and Secondary Schools Committees which are not sub-committees but rather are constituted pursuant to section 6 of the Education (Guernsey) Law, 1970.
11. In the six years since records of Members' attendance at meetings were first kept, no report has indicated that a Member had neglected his/her duty to attend meetings. That being so, it might be held that the exercise is all rather pointless. A rough calculation indicates that the staff time cost across the States as a whole in maintaining and reporting is probably in the region of £3,000 per annum.
12. The Committee therefore considered whether reporting should continue and if so, to what extent and recommends that records should continue to be kept, and reports made, in respect of attendance at meetings of the States of Deliberation and meetings of departments and committees. However, the Committee has concluded, having regard to the difficulties set out in earlier paragraphs, that records should no longer be kept in respect of attendance at meetings of sub-committees.
13. Coincidentally, at the same time as this matter was being considered by the Committee, it received a request from a States Member that consideration be given to introducing a register which Members would be required to sign if they were to be absent from the States Chamber for a half day or longer and in which they would state the reasons for their absence. The Committee does not believe that the provision of such a register is necessary and therefore does not make any recommendation in that regard.
14. The States Assembly and Constitution Committee recommends the States to agree:
 1. To rescind paragraphs 19 and 20 of the Resolutions on Article IX of Billet d'État I of 2004;

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.

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

POLICY COUNCIL

L. S. Trott	15	13	1			1	
B. M. Flouquet	15	14			1		
A. H. Adam	15	13				2	
M. H. Dorey	15	12	3				
D. B. Jones	15	13			1	1	
G. H. Mahy	15	13	1			1	
C. S. McNulty Bauer	15	13	1		1		
M. G. O'Hara	15	12	1		1	1	
C. N. K. Parkinson	15	12				3	
P. R. Sirett	15	12	1			2	
C. A. Steere	15	10	4				1 flight delayed

Alternate Members:

R. Domaille	1	1					
M. G. G. Garrett	2	2					
G. Guille	2	2					
J. Honeybill	1	1					
M. S. Lainé	1	1					
A. R. Le Lièvre	2	2					
T. M. Le Pelley	1	1					
F. W. Quin	1	1					
J. M. Tasker	2	2					

COMMERCE AND EMPLOYMENT DEPARTMENT

C. S. McNulty Bauer	15	15					
R. W. Sillars	15	12	2			1	
P. L. Gillson	15	12	1			1	1 unknown
M. S. Lainé	15	14	1				
M. J. Storey	15	13	2				

CULTURE AND LEISURE DEPARTMENT

M. G. O'Hara	6	6					
M. G. G. Garrett	6	6					
G. P. Dudley-Owen	6	5	1				
J. A. B. Gollop	6	6					
F. W. Quin	6	5		1			

EDUCATION DEPARTMENT

C. A. Steere	18	18					
A. Spruce	18	16				2	
M. J. Fallaize	18	17	1				
M. W. Collins	18	14			1	3	
D. de G. De Lisle	18	17	1				

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	12	10				2	
J. M. Tasker	12	10	1			1	
J. Honeybill	12	11	1				
J. M. Le Sauvage	12	12					
B. J. E. Paint	12	10		1		1	

HEALTH AND SOCIAL SERVICES DEPARTMENT

A. H. Adam	13	11			1	1	
B. L. Brehaut	13	11	1	1			
A. R. Le Lièvre	13	13					
M. M. Lowe	13	10	1			2	
R. G. Willmott	13	11				1	1 fog-bound

HOME DEPARTMENT

G. H. Mahy	13	13					
F. W. Quin	13	12				1	
S. J. Maindonald	13	10		1		2	
J. M. Tasker	13	12				1	
M. S. Lainé	13	12	1				

HOUSING DEPARTMENT

D. B. Jones	12	9		1	1	1	
G. Guille	12	12					
T. J. Stephens	12	11	1				
G. P. Dudley-Owen	12	11				1	
S. J. McManus	12	12					

PUBLIC SERVICES DEPARTMENT

B. M. Flouquet	12	11	1				
S. J. Ogier	12	11				1	
T. M. Le Pelley	12	10				2	
A. Spruce	12	11				1	
W. Walden	12	8				4	

SOCIAL SECURITY DEPARTMENT

M. H. Dorey	17	17					
A. H. Brouard	17	16	1				
S. J. Ogier	17	11	4		1	1	
A. R. Le Lièvre	17	15	1			1	
M. W. Collins	17	16				1	

TREASURY AND RESOURCES DEPARTMENT

C. N. K. Parkinson	26	26					
A. H. Langlois	26	25				1	
S. L. Langlois	26	26					
R. Domaille	26	22				4	
J. Honeybill	26	26					

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	5	5					
R. R. Matthews	5	4			1		
L. R. Gallienne	5	4				1	
T. J. Stephens	5	5					
J. Kuttelwascher	2	1				1	
S. J. Maindonald	2				2		

PUBLIC ACCOUNTS COMMITTEE

L. R. Gallienne	19	19					
M. G. G. Garrett	19	17	1		1		
B. J. E. Paint	19	16				3	
T. J. Stephens	19	16	2		1		
M. J. Storey	19	13	1		2	3	

PUBLIC SECTOR REMUNERATION COMMITTEE

A. H. Langlois	9	9					
R. W. Sillars	9	8				1	
S. J. Ogier	9	6			1	2	
B. J. E. Paint	9	8				1	
T. J. Stephens	9	9					

SCRUTINY COMMITTEE

B. L. Brehaut	8	8					
M. J. Fallaize	8	8					
M. G. G. Garrett	8	8					
J. A. B. Gollop	8	8					
M. P. J. Hadley	8	6				2	
J. Kuttelwascher	8	8					
S. J. McManus	8	8					
R. R. Matthews	8	7			1		
M. J. Storey	8	5				3	

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

I. F. Rihoy	7	6				1	
M. M. Lowe	7	6				1	
M. J. Fallaize	7	5	2				
S. L. Langlois	7	7					
T. M. Le Pelley	7	6				1	

INHERITANCE LAW REVIEW COMMITTEE

<i>No meetings</i>							
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PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

<i>No meetings</i>							
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PART II - REPORT BY SUB-COMMITTEES

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

POLICY COUNCIL – Population Policy Group

B. M. Flouquet	7	6	1				
C. S. McNulty Bauer	7	6			1		
D. B. Jones	7	6		1			
G. H. Mahy	7	7					
M. H. Dorey	7	7					

POLICY COUNCIL – Social Policy Group

A. H. Adam	6	6					
M. H. Dorey	6	6					
G. H. Mahy	6	4	1				1 unknown
C. A. Steere	6	3	2				1 unknown
C. N. K. Parkinson	6	1	1		1	3	
A. R. Le Lièvre	6	6					
R. W. Sillars	6	5				1	
J. M. Tasker	6	4	1				1 unknown
G. P. Dudley-Owen	6	5					1 unknown

POLICY COUNCIL – Strategic Land Planning Group

B. M. Flouquet	6	4	1			1	
P. R. Sirett	6	5	1*		*		
M. G. O'Hara	6	5			1		
M. H. Dorey	6	6					
G. Guille	6	5					1 unknown
T. M. Le Pelley	6	5				1	
P. L. Gillson	6	4				1	1 unknown

POLICY COUNCIL – Fiscal and Economic Policy Steering Group

L. S. Trott	11	10			1		
B. M. Flouquet	11	11					
A. H. Adam	11	10				1	
C. S. McNulty Bauer	11	10			1		
C. N. K. Parkinson	11	10					1 – delayed flight

POLICY COUNCIL – Energy Policy Group

C. N. K. Parkinson	3	2				1	
M. S. Lainé	3	2		1			
J. M. Le Sauvage	3	3					
G. Guille	3	2			1		
S. J. Ogier	3	2		1			

POLICY COUNCIL – Environmental Policy Group

P. R. Sirett	2	2					
B. M. Flouquet	2	1			1		
M. G. O'Hara	2	1	1				
C. A. Steere	2	2					
P. L. Gillson	2	1				1	

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

POLICY COUNCIL – External Relations Group

L. S. Trott	6	6					
B. M. Flouquet	6	5			1		
C. S. McNulty Bauer	6	5			1		
D. B. Jones	6	4			2		
P. R. Sirett	6	6					

POLICY COUNCIL – States Strategic Plan Team

C. N. K. Parkinson	7	7					
C. S. McNulty Bauer	7	5	1		1		
M. H. Dorey	1		1*		*		
S. J. McManus	1	1					
S. L. Langlois	7	7					
M. J. Storey	7	6	1				
R. G. Willmott	7	6		1			
A. H. Brouard	5	5					
M. G. G. Garrett	5	5					

POLICY COUNCIL – Douzaine Liaison Team

A. H. Adam	5	5					
M. P. J. Hadley	5	5					
R. Domaille	5	5					

POLICY COUNCIL – Parochial Legislation Working Party

A. H. Adam	1	1					
S. L. Langlois	1	1					
R. Domaille	1	1					

**COMMERCE AND EMPLOYMENT DEPARTMENT and
TREASURY AND RESOURCES DEPARTMENT– Construction Sector Group**

C. S. McNulty Bauer	1	1					
P. L. Gillson	1	1					
J. Honeybill	1	1					
S. L. Langlois	1			1			

COMMERCE AND EMPLOYMENT DEPARTMENT – Dairy Management Board

R. W. Sillars	6	5				1	
M. J. Storey	6	4	2				

COMMERCE AND EMPLOYMENT DEPARTMENT – Business Guernsey Group

R. W. Sillars	6	6					
M. S. Lainé	6	6					
M. J. Storey	6	3			1	2	
P. L. Gillson	6	5			1		

**COMMERCE AND EMPLOYMENT DEPARTMENT and
PUBLIC SERVICES DEPARTMENT – External Transport Group**

C. S. McNulty Bauer	2	2					
M. S. Lainé	2						2 not known
B. M. Flouquet	2	2					
S. J. Ogier	2					2	
T. M. Le Pelley	1	1					

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

COMMERCE AND EMPLOYMENT DEPARTMENT – Finance Sector Group

C. S. McNulty Bauer	5	5					
P. L. Gillson	5	2			3		
L. S. Trott	5	2			3		
C. N. K. Parkinson	5	5					
M. S. Lainé	2	2					

**COMMERCE AND EMPLOYMENT DEPARTMENT – Intellectual Property Office
Steering Group**

M. J. Storey	2	2					
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COMMERCE AND EMPLOYMENT DEPARTMENT – Guernsey Fulfilment and Mail Order Group

<i>No meetings</i>							
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COMMERCE AND EMPLOYMENT DEPARTMENT – GREC Project Board

M. S. Lainé	4	3	1				
R. W. Sillars	4	3				1	

CULTURE AND LEISURE DEPARTMENT – Liberation Celebrations Committee

M. G. O'Hara	20	20					
G. P. Dudley-Owen	9	9					
M. G. G. Garrett	15	12			3		

CULTURE AND LEISURE DEPARTMENT – Channel Islands Lottery Advisory Panel

F. W. Quin	1	1					
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CULTURE AND LEISURE DEPARTMENT – Guernsey Sports Commission

F. W. Quin	4	4					
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CULTURE AND LEISURE DEPARTMENT – Friends of St. James Association

M. G. G. Garrett	2	2					
F. W. Quin	1	1					

CULTURE AND LEISURE DEPARTMENT – Events Group

<i>No meetings</i>							
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**CULTURE AND LEISURE DEPARTMENT – Events Group – Chairmen of Specialist Interest
Groups Sub-Meeting**

M. G. G. Garrett	1			1			
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EDUCATION DEPARTMENT – Appointments Panel

C. A. Steere	2	2					
A. Spruce	2	2					
D. de G. De Lisle	2	2					

EDUCATION DEPARTMENT – Baubigny Schools Project Board

<i>No meetings</i>							
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EDUCATION DEPARTMENT – Guille-Allès Library

M. J. Fallaize	3	3					
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NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other

EDUCATION DEPARTMENT – Blanchelande Girls’ College Board

C. A. Steere	2	2					
M. J. Fallaize	2	2					

EDUCATION DEPARTMENT – e-Learning Steering Group

M. W. Collins	3	3					
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EDUCATION DEPARTMENT – College of Further Education Development Committee

C. A. Steere	2	2					
M. W. Collins	2	2					

EDUCATION DEPARTMENT – Apprenticeship Sub-Committee

C. A. Steere	2	2					
M. J. Fallaize	2	2					

EDUCATION DEPARTMENT – Higher Education Working Party

C. A. Steere	3	3					
A. Spruce	3	3					
D. de G. De Lisle	3	3					

EDUCATION DEPARTMENT – Grammar School Committee

C. A. Steere	2	2					
M. W. Collins	2	1			1		

EDUCATION DEPARTMENT – Joint Advisory Committee

C. A. Steere	1	1					
M. J. Fallaize	1				1		

EDUCATION DEPARTMENT – Lifelong Learning Sub-Committee

A. Spruce	1	1					
M. S. Lainé	1	1					
P. L. Gillson	1	1					

EDUCATION DEPARTMENT – Guernsey Training Agency

M. W. Collins	4	4					
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EDUCATION DEPARTMENT – Youth Service

A. Spruce	3	3					
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EDUCATION DEPARTMENT – Standing Advisory Council for Religious Education

C. A. Steere	1	1					
M. W. Collins	1					1	
D. de G. De Lisle	1	1					

EDUCATION DEPARTMENT – Amherst and Vauvert Primary Schools’ Committee

M. W. Collins	1	1					
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EDUCATION DEPARTMENT – Forest Primary School Committee

D. de G. De Lisle	2	2					
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NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other
EDUCATION DEPARTMENT – La Mare de Carteret Primary School Committee							
D. de G. De Lisle	2	2					
EDUCATION DEPARTMENT – La Houquette Primary School Committee							
De. De G. De Lisle	1				1		
EDUCATION DEPARTMENT – St Andrew’s Primary School Committee							
C. A. Steere	2	1				1	
EDUCATION DEPARTMENT – Castel Primary School Committee							
C. A. Steere	2	2					
EDUCATION DEPARTMENT – St Martins Primary School Committee							
No meetings							
EDUCATION DEPARTMENT – St Mary and St Michael Roman Catholic Primary School Committee							
C. A. Steere	1	1					
M. W. Collins	1	1					
EDUCATION DEPARTMENT – Notre Dame du Rosaire Roman Catholic Primary School Committee							
C. A. Steere	2	2					
M. W. Collins	2	1				1	
EDUCATION DEPARTMENT – Hautes Capelles Primary School Committee							
M. J. Fallaize	3	3					
EDUCATION DEPARTMENT – Vale Infant and Junior and St Sampson’s Infant Schools’ Committee							
M. J. Fallaize	1				1		
EDUCATION DEPARTMENT – St Sampson’s High School Committee							
A. Spruce	2	2					
EDUCATION DEPARTMENT – Les Beaucamps High School Committee							
C. A. Steere	2	1		1			
EDUCATION DEPARTMENT - St Anne’s School Committee							
D. de G. De Lisle	2	2					
EDUCATION DEPARTMENT – La Mare de Carteret High School Committee							
D. de G. De Lisle	1				1		
EDUCATION DEPARTMENT – ICT Project Board							
M. W. Collins	1	1					
R. Domaille	1	1					

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

EDUCATION DEPARTMENT – Les Beaucamps Project Board							
C. A. Steere	2	2					
M. W. Collins	2	1				1	
J. Honeybill	2	2					
S. L. Langlois	2	2					

EDUCATION DEPARTMENT – Les Ozouets Project Board							
C. A. Steere	1	1					
S. L. Langlois	1	1					

HOME DEPARTMENT – Gambling Sub-Committee							
<i>No meetings</i>							

HOME DEPARTMENT – Law Enforcement Working Group							
G. H. Mahy	4	4					

HOME DEPARTMENT – Accommodation Sub-Committee							
<i>No meetings</i>							

HOME DEPARTMENT – Staff Appeal Panel							
G. H. Mahy	2	2					
F. W. Quin	2	1				1	
S. J. Maindonald	2	1					1 unknown
J. M. Tasker	2	2					
M. S. Lainé	2	2					

PUBLIC SERVICES DEPARTMENT – Pilotage Board							
W. Walden	1	1					
A. Spruce	1	1					

PUBLIC SERVICES DEPARTMENT – Waste Disposal Authority							
B. M. Flouquet	5	5					
S. J. Ogier	5	4				1	
T. M. Le Pelley	5	5					
A. Spruce	5	5					
W. Walden	5	3				2	

PUBLIC SERVICES DEPARTMENT – Guernsey Recycling Advisory Forum							
S. J. Ogier	5	5					

PUBLIC SERVICES DEPARTMENT – Airport Pavements Project Board							
B. M. Flouquet	5	5					
S. J. Ogier	2	2					
T. M. Le Pelley	5	4				1	
A. Spruce	5	3				2	
W. Walden	1	1					
R. Domaille	5	4				1	
S. L. Langlois	4	4					

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

PUBLIC SERVICES DEPARTMENT – Alderney Airport Working Party
No meetings
PUBLIC SERVICES DEPARTMENT – Residual Waste Treatment Plant Project Board

B. M. Flouquet	1	1					
S. J. Ogier	1	1					
T. M. Le Pelley	1	1					
A. Spruce	1	1					
W. Walden	1	1					
A. H. Langlois	1	1					
R. Domaille	1					1	

PUBLIC SERVICES DEPARTMENT – St. Andrew's Site Development Project Board

B. M. Flouquet	1	1					
J. Honeybill	1	1					

PUBLIC SERVICES DEPARTMENT – Waste Industry Forum

B. M. Flouquet	1	1					
S. J. Ogier	1	1					
T. M. Le Pelley	1	1					
A. Spruce	1					1	
W. Walden	1					1	

TREASURY AND RESOURCES DEPARTMENT – Property Services Sub-Committee

J. Honeybill	10	10					
R. Domaille	10	8				2	
S. L. Langlois	10	10					

TREASURY AND RESOURCES DEPARTMENT – Investments Sub-Committee

C. N. K. Parkinson	4	4					
J. Honeybill	4	4					
S. L. Langlois	4	3				1	

TREASURY AND RESOURCES DEPARTMENT – ICT Sub-Committee

R. Domaille	3	2				1	
A. H. Langlois	3	3					

TREASURY AND RESOURCES DEPARTMENT – Accountancy Sub-Committee

C. N. K. Parkinson	1	1					
A. H. Langlois	1	1					
S. L. Langlois	1	1					

TREASURY AND RESOURCES DEPARTMENT – Land Registry Steering Group

J. Honeybill	6	6					
S. L. Langlois	6	6					

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

TREASURY AND RESOURCES DEPARTMENT – Contract Sub-Committee

C. N. K. Parkinson	2	2					
R. Domaille	2	2					
A. H. Langlois	2	2					

TREASURY AND RESOURCES DEPARTMENT – Digimap Management Board

S. L. Langlois	1	1					
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PUBLIC ACCOUNTS COMMITTEE – Audit Sub-Committee

L. R. Gallienne	2	2					
M. J. Storey	2		1		1		

PUBLIC ACCOUNTS COMMITTEE – Auditor General Working Party

L. R. Gallienne	2	2					
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PUBLIC ACCOUNTS COMMITTEE – Corporate Governance Group

<i>No meetings</i>							
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PUBLIC ACCOUNTS COMMITTEE – Investment Group

<i>No meetings</i>							
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PUBLIC ACCOUNTS COMMITTEE – Contract Review Working Party

T. J. Stephens	1	1					
M. G. G. Garrett	1	1					

PUBLIC SECTOR REMUNERATION COMMITTEE – Public Service Employees Joint Council

<i>No meetings</i>							
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PUBLIC SECTOR REMUNERATION COMMITTEE – Teachers and Lecturers Joint Council

<i>No meetings</i>							
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PUBLIC SECTOR REMUNERATION COMMITTEE – Civil Service Joint Council

<i>No meetings</i>							
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PUBLIC SECTOR REMUNERATION COMMITTEE – Pensions Consultative Committee

A. H. Langlois	1	1					
R. W. Sillars	1	1					
S. J. Ogier	1	1					
B. J. E. Paint	1					1	
T. J. Stephens	1	1					

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

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other
ST PETER PORT SOUTH							
B. L. Brehaut	21	19	1	1			
C. S. McNulty Bauer	69	62	2		5		
J. M. Tasker	35	30	2			2	1 unknown
R. Domaille	55	46				9	
A. H. Langlois	43	42				1	
J. Kuttelwascher	10	9				1	
ST PETER PORT NORTH							
J. A. B. Gollop	19	19					
R. R. Matthews	13	11			2		
C. A. Steere	68	58	6	1		1	1 unknown 1 flight delay
M. J. Storey	65	46	7		4	8	
J. Honeybill	63	62	1				
L. R. Gallienne	28	27				1	
M. W. Collins	54	45			2	7	
ST. SAMPSON							
P. L. Gillson	36	25	2		4	3	2 unknown
S. J. Maindonald	17	11		1	2	2	1 unknown
S. J. Ogier	58	44	4	1	2	7	
I. F. Rihoy	7	6				1	
L. S. Trott	37	31	1		4	1	
T. J. Stephens	42	38	3		1		
VALE							
M. J. Fallaize	45	40	3		2		
G. H. Mahy	47	43	2			1	1 unknown
A. Spruce	54	48				6	
M. M. Lowe	20	16	1			3	
G. Guille	23	21			1		1 unknown
D. B. Jones	40	32		2	4	2	
A. R. Le Lièvre	38	36	1			1	
CASTEL							
M. H. Dorey	52	48	4				
A. H. Adam	51	46			1	4	
T. M. Le Pelley	39	34				5	
S. J. McManus	21	21					
B. J. E. Paint	41	34		1		6	
B. M. Flouquet	74	67	3		3	1	
M. G. G. Garrett	59	53	1	1	4		

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other
WEST							
A. H. Brouard	22	21	1				
D. de G. De Lisle	32	29	1		2		
M. S. Lainé	49	43	3	1			2 unknown
S. L. Langlois	71	69		1		1	
P. R. Sirett	41	35	2			4	
G. P. Dudley-Owen	33	30	1			1	1 unknown
SOUTH-EAST							
C. N. K. Parkinson	80	70	1		1	7	1 flight delay
F. W. Quin	28	25		1		2	
M. G. O'Hara	49	44	2		2	1	
R. W. Sillars	47	40	2			5	
J. M. Le Sauvage	15	15					
M. P. J. Hadley	13	11				2	
ALDERNEY REPRESENTATIVES							
R. G. Willmott	20	17		1		1	1 fog bound
W. Walden	21	14				7	
TOTAL							
Number of meetings	1,870	1,638	57	12	46	104	10 unknown 2 flight delay 1 fog bound
		87.6%	3.1%	0.6%	2.4%	5.6%	0.7%
AVERAGE PER MEMBER							
	39.8	34.8	1.2	0.2	1.0	2.2	0.3

PART IV – 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
ST PETER PORT SOUTH				
B. L. Brehaut	14	14	23	23
C. S. McNulty Bauer	14	14	23	23
J. M. Tasker	14	14	23	23
R. Domaille	14	12	23	20
A. H. Langlois	14	14	23	23
J. Kuttelwascher	14	14	23	23
ST PETER PORT NORTH				
J. A. B. Gollop	14	14	23	23
R. R. Matthews	14	14	23	23
C. A. Steere	14	13	23	21
M. J. Storey	14	14	23	22
J. Honeybill	14	14	23	22
L. R. Gallienne	14	14	23	23
M. W. Collins	14	14	23	23
ST SAMPSON				
P. L. Gillson	14	14	23	23
S. J. Maindonald	14	9	23	10
S. J. Ogier	14	14	23	22
I. F. Rihoy	14	14	23	23
L. S. Trott	14	14	23	22
T. J. Stephens	14	14	23	23
VALE				
M. J. Fallaize	14	14	23	21
G. H. Mahy	14	14	23	23
A. Spruce	14	14	23	23
M. M. Lowe	14	13	23	21
G. Guille	14	14	23	23
D. B. Jones	14	14	23	22
A. R. Le Lièvre	14	14	23	23
CASTEL				
M. H. Dorey	14	14	23	23
A. H. Adam	14	13	23	23
T. M. Le Pelley	14	14	23	23
S. J. McManus	14	14	23	22
B. J. E. Paint	14	14	23	23
B. M. Flouquet	14	14	23	23
M. G. G. Garrett	14	14	23	23

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)	TOTAL NUMBER OF VOTES	VOTES ATTENDED
WEST				
A. H. Brouard	14	14	23	23
D. de G. De Lisle	14	14	23	23
M. S. Lainé	14	14	23	23
S. L. Langlois	14	14	23	23
P. R. Sirett	14	12	23	20
G. P. Dudley-Owen	14	14	23	23
SOUTH-EAST				
C. N. K. Parkinson	14	13	23	22
F. W. Quin	14	14	23	21
M. G. O'Hara	14	14	23	22
R. W. Sillars	14	14	23	23
J. M. Le Sauvage	14	14	23	23
M. P. J. Hadley	14	14	23	23
ALDERNEY REPRESENTATIVES				
R. G. Willmott	12	12	20	20
W. Walden	14	14	23	22
E. Bennett	2	2	3	3

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 acceptable reasons, e.g. illness or representing the States in some other forum such as the Commonwealth Parliamentary Association.

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/>

The States are asked to decide:-

VI.- Whether, after consideration of the Report dated 5th July, 2010, of the States Assembly and Constitution Committee, they are of the opinion:-

1. To rescind paragraphs 19 and 20 of the Resolutions on Article IX of Billet d'État I of 2004.
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.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

**THE DATA PROTECTION
(PROCESSING OF PERSONAL DATA) ORDER, 2010**

In pursuance of section 66(4) of the Data Protection (Bailiwick of Guernsey) Law 2001, the Data Protection (Processing of Personal Data) Order, 2010, made by the Home Department on 17th May, 2010, is laid before the States.

EXPLANATORY NOTE

The first data protection principle set out in paragraph 1 of Schedule 1 to the Data Protection (Bailiwick of Guernsey) Law 2001 ("the Law") prohibits the processing of personal data unless one of the conditions in Schedule 2 to the Law is met. The condition set out in paragraph 6 of that Schedule is that the processing is necessary for the purposes of the legitimate interests pursued by the data controller or the third party or parties to whom the data are disclosed and that the Committee [now the Home Department] may by Order specify particular circumstances in which this condition is, or is not, taken to be satisfied.

Article 1 of, and the Schedule to, this Order enable a person to process data disclosed by the Environment Department consisting of the name and address of the registered keeper of a vehicle which appears to have been abandoned without consent on land which is the private property of that person.

These Regulations come into force on 1st June, 2010.

**THE DATA PROTECTION (SUBJECT ACCESS) (FEES AND
MISCELLANEOUS PROVISIONS) (AMENDMENT) REGULATIONS, 2010**

In pursuance of section 66(4) of the Data Protection (Bailiwick of Guernsey) Law, 2001, the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) (Amendment) Regulations, 2010, made by the Home Department on 24th June, 2010, are laid before the States.

EXPLANATORY NOTE

These Regulations amend regulation 2 of the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations, 2002 ("the Principal Regulations").

Under the Regulations, regulation 2 of the Principal Regulations is replaced with fresh provision providing that, except in the special cases set out in regulations 3 and 4, the maximum fee which a data controller may require for access to data under section 7(2) of the Law is -

in the case of health records, where the information is provided in a form other

than in writing on paper, £50 or where the information is provided in writing on paper, a fee which varies according to the number of pages of information provided; and

in all other cases, £10.

The Regulations also insert new provision in the Principal Regulations which requires a data controller to provide a person wishing to make a request under section 7 of the Law with an estimate of the cost of complying with the request, where the data controller considers that this will exceed £10.

THE TOMATOES (CONTROL OF IMPORTATION) ORDER, 2010

In pursuance of Section 13 of the Import and Export (Plant Health) Ordinance, 1982 as amended, The Tomatoes (Control of Importation) Order, 2010, made by the Commerce and Employment Department on 29th June 2010, is laid before the States.

EXPLANATORY NOTE

This Order prohibits the importation into Guernsey, Herm and Jethou of tomatoes, other than pre-packed tomatoes, that originate in Spain or Morocco. For the purposes of the Order, Spain includes the Canary Islands.

The Tomato Leaf Miner, *Tuta absoluta*, is a devastating tomato pest that is a serious threat to tomato production. This pest can be transmitted in the tomato fruit and has been found in tomatoes that originate in Spain and Morocco.

Tomato production in Guernsey relies heavily of biological controls in order to exploit the opportunity to market such production as “chemical-free”.

At the present time, there is no biological control for *Tuta absoluta* and until such a control becomes available, the Commerce and Employment Department considers that it is necessary to protect Island tomato production from this pest by prohibiting the importation of tomatoes that originate in Spain and Morocco.

Loose tomatoes represent a higher risk of import of *Tuta absoluta* compared to pre-packed tomatoes, which are subject to significantly higher levels of scrutiny and quality checks in the packhouse.

THE COMPANIES (REGISTRAR) (FEES) (AMENDMENT) REGULATIONS, 2010

In pursuance of Section 501(1) of the Companies (Guernsey) Law, 2008, the Companies (Registrar) (Fees) (Amendment) Regulations, 2010, made by the Registrar of Companies on 1st July 2010, are laid before the States.

EXPLANATORY NOTE

These Regulations replace the schedule of fees payable to the Registrar of Companies under the Companies (Registrar) (Fees) Regulations, 2009 in respect of the performance of his functions under the Companies (Guernsey) Law, 2008, as amended and clarify the description of “financial product companies” in respect of which the fee prescribed in the schedule is payable.

**THE FINANCIAL SERVICES COMMISSION
(ADMINISTRATIVE FINANCIAL PENALTIES)
(BAILIWICK OF GUERNSEY) REGULATIONS, 2010**

In pursuance of Section 25(3) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended, the Financial Services Commission (Administrative Financial Penalties) (Bailiwick of Guernsey) Regulations, 2010, made by the Guernsey Financial Services Commission on 2nd July, 2010, are laid before the states

EXPLANATORY NOTE

These Regulations prescribe, for the purposes of section 11I of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, the administrative financial penalties payable to the Commission for the late filing or delivery of financial statements and annual returns under 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 AIR NAVIGATION (RESTRICTION OF FLYING)
(BAILIWICK OF GUERNSEY) REGULATIONS, 2010**

In pursuance of Section 63(1) (b) of the Aviation (Bailiwick of Guernsey) Law, 2008, the Air Navigation (Restriction of Flying) (Bailiwick of Guernsey) Regulations, 2010, made by the Director of Civil Aviation on 9th July 2010, is laid before the States.

EXPLANATORY NOTE

These Regulations prohibit (subject to the granting of exemptions) all flights within four and a half miles of position:

N 49 2718.17
W 002 3127.05

Between 09:55 and 12:20 hours UTC on the 9th September, 2010 by reason of an air display. They impose other restrictions on flying and the use of Guernsey Airport in order to enable the display to be undertaken safely.

**THE EXPORT CONTROL (MISCELLANEOUS GOODS)
(BAILIWICK OF GUERNSEY) (AMENDMENT) ORDER, 2010**

In pursuance of Section 12 of the Export Control (Bailiwick of Guernsey) Law, 2006, the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) (Amendment) Order, 2010, made by the Home Department on 16th July, 2010, is laid before the States.

EXPLANATORY NOTE

This Order adds products and substances containing naphyrone to the list of prohibited exports in Schedule 4 to the Export Control (Miscellaneous Goods) (Bailiwick of Guernsey) Order, 2010.

APPENDIX 1

HOME DEPARTMENT

2009 DATA PROTECTION ANNUAL REPORT

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

8th July 2010

Dear Sir

I enclose the Annual Report from the Data Protection Commissioner setting out the activities of his office for the year ended 31 December 2009.

The Report is prepared in accordance with the Commissioner's responsibilities under paragraph 5 of Schedule 5 to the Data Protection (Bailiwick of Guernsey) Law, 2001.

The Report also includes a statement of accounts as required by paragraph 3(b) of the above Schedule to the Law.

The Home Department is pleased to support the work of the Commissioner and his office and recognises that high standards of data protection continue to be essential in ensuring the international reputation of the Bailiwick in this field.

Section 52(b) of the Law requires the report to be laid before the States. I should therefore be grateful if you would arrange for its publication as an Appendix to the September 2010 Billet d'Etat.

Yours faithfully

G H Mahy
Minister

Enc

BAILIWICK OF GUERNSEY



DATA PROTECTION COMMISSIONER REPORT FOR 2009



MISSION STATEMENT

The Data Protection Office will encourage respect for the private lives of individuals by:

- *promoting good information handling practice,*
- *enforcing data protection legislation and*
- *seeking to influence national and international thinking on privacy issues.*

Front Cover: "The Right to be Left Alone"

Another Time XI by Anthony Gormley, erected at Le Petit Monceau, Herm Island, on 11th March 2010.

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FOREWORD

I am pleased to present my ninth annual report to the States of Guernsey, covering the calendar year 2009.

The approval by the States of the amendments to the Law reinforced the importance of compliance with data protection legislation, since for the first time the option of a custodial sentence will be available for serious breaches of the Law. These amendments, together with the revision of the notification fee, are effective from 1st March 2010.

On the administrative side, it is pleasing to report that the Internet site used for notification was successfully transferred from the UK and is now wholly hosted and maintained locally. Whilst this process did lead to some unanticipated costs, overall expenditure remained within budget and the ongoing costs of maintaining the site in Guernsey should be significantly lower than beforehand.

The number of substantive complaints received remained at around three per month which, considering that many of the complaints required some weeks to resolve, resulted in a steady stream of enforcement work, interspersed with the need to respond to more general enquiries.

Approximately 400 people attended talks and presentation that were given during the year, serving to heighten awareness of the Law and refresh knowledge of individual rights. This awareness was reinforced by media releases highlighting important issues of the day.

Following the initiative of the UK Commissioner, there now appears to be a growing body of support within the European Union for the 1995 Data Protection Directive to be amended. I responded to the EU public consultation process and it remains to be seen how many of the suggestions which were made by the respondents find their way into any proposals for the revision of the Directive.

The Assistant Commissioner and I continued the policy of participation in specific international conferences and meetings, thereby both enhancing our knowledge and heightening global awareness of the standards of regulation that apply within the Bailiwick.

My task is made much easier by the positive way in which many local organisations respond to issues raised by my Office. Once again it is pleasing to report that no formal enforcement action was necessary during 2009 and there were no prosecutions for breaches of the Law.

Data Protection Commissioner, May 2010.



DATA PROTECTION ISSUES

Amendments to the Law

On 26th November 2009, the States resolved to strengthen the penalty for unlawful disclosure of personal data by introducing the option of a custodial sentence. This provision was incorporated with other amendments to the Law (that had been previously approved by the States on 27th September 2006) into an amending Ordinance¹, which was laid before the States on 27th January 2010.

This Ordinance, which comes into effect on 1st March 2010, comprises 22 sections, some of which deal merely with cosmetic changes and grammatical issues. There are also updates to some definitions following the reorganisation of the machinery of government when States departments replaced the former committee structure.

The 10 substantive provisions are as follows and are referenced by their section number:

3. Inserts a section into the Law which excludes liability incurred by the Commissioner or by any of his staff for anything that was done in good faith in the discharge of his functions under the Law. This is a valuable amendment since the Commissioner, being an independent self-employed person might otherwise have been successfully sued for damages as a result of an action taken or a decision he may have made.
7. Extends the definition of “public information” in section 34 of the Law to include information held on a public register.
8. Extends the power of the Commissioner to serve an information notice under section 43 of the Law not only on the data controller, but also on another controller or processor if the Commissioner has reasonable grounds for suspecting that the controller or processor holds information that would assist in assessing the compliance of the data controller being assessed.

This should prove to be an effective mechanism in cases where evidence may be held by a third party that would otherwise not be available to the Commissioner and should minimise the need for the Commissioner to resort to a search warrant in such cases.

10. Adds a “journalistic exemption” to liability under section 55 of the Law for the unlawful obtaining of personal data, analogous to the provision that is proposed in the UK.

¹ The Data Protection (Bailiwick of Guernsey) (Amendment) Ordinance, 2010



11. Allows for the commencement of section 56 (prohibition of enforced subject access) by exempting a disclosure made in accordance with a Code of Practice issued by the Commissioner under section 51 of the Law.

This exemption includes pre- and post-employment checks using Basic, Standard and Enhanced Disclosures issued by agencies such as the CRB.

12. Introduces custodial sentences for offences under section 55 of the Law. This means that a person guilty of unlawfully disclosing, or procuring the disclosure of, personal data is liable on summary conviction not only to a fine but also to imprisonment for up to 12 months and in a more serious case of conviction on indictment, to a prison term of up to two years plus an unlimited fine.

This provision is in line with the proposals from the Ministry of Justice in the UK. As well as providing a greater deterrent against the trade in unlawfully obtained data, the prospect of a custodial sentence enables the issue of an arrest warrant where an alleged offence may have been committed across jurisdictional boundaries. This is of particular relevance to the Bailiwick.

13. and

14. Clarify the applicability of the Law to the Crown, to government departments and to the service of notices. The need for these provisions followed difficulties encountered previously by the Commissioner in serving information and enforcement notices on government departments².

Associated with this provision is an Order exempting Crown Appointments from the subject information provisions of the Law.

15. Amends various definitions, in particular that of a health professional, which is of specific relevance to the disclosure of and subject access to, health records.
18. Extends the power of the Commissioner to serve an information notice to support an assessment of compliance with the Privacy Ordinance³.

This provision enables a notice to be served not only on the person being assessed, but also on another person if the Commissioner has reasonable grounds for suspecting that the other person holds information that would assist

² Data Protection Commissioner's Annual Report for 2005, page 25

http://www.gov.gg/ccm/cms-service/stream/asset?asset_id=2220001&

³ The European Communities (Implementation of Privacy Directive) (Guernsey) Ordinance, 2004

http://www.gov.gg/ccm/cms-service/download/asset/?asset_id=373006

in assessing the compliance of the person being assessed. This should prove particularly effective in cases where information relating to alleged contraventions such as spamming or phishing may be held by an Internet Service Provider.

Amendments to the Notification Regulations⁴, which were also approved by the States in 2006, come into force on 1st March 2010.

The annual notification fee rose from £35 to £50, although there are no plans to levy a higher fee on large companies, as is the case in the UK. At the same time, not for profit organisations are able to notify free of charge.

It is considered that a higher fee for larger companies would not work very well in a small jurisdiction such as Guernsey, where the number of such companies is relatively small. In any case, many financial services companies currently make multiple notifications on behalf of separate entities which are individually registered with the Guernsey Financial Services Commission. As a result, these firms already pay a higher overall fee.

The waiving of a notification fee for non-profit organisations, such as charities, will be of particular assistance to those organisations which for a variety of reasons may not have been exempt from notification and should encourage other charitable organisations, many of which process sensitive personal data, to notify voluntarily as there will no longer be a cost penalty.

European Union Consultation

On 9th July 2009, the Freedom, Security and Justice Directorate of the European Union launched a public consultation⁵ on the legal framework for the fundamental right to protection of personal data.

The objective of the consultation was stated as:

"To obtain views on the new challenges for personal data protection in order to maintain an effective and comprehensive legal framework to protect individuals' personal data within the EU."

The main targets of the consultation were private individuals, public authorities and commercial organisations within the EU, but since the Directives have a profound impact on third countries, such as Guernsey, the Commissioner considered that it was important to respond from that perspective. The consultation closed on 31st December 2009 and copies of all responses received are available on the above-referenced website⁵. A copy of the Commissioner's response is reproduced as Appendix A.

⁴ The Data Protection (Notification and Notification Fees) (Amendment) Regulations, 2010
http://www.gov.gg/ccm/cms-service/download/asset/?asset_id=11231122

⁵ http://ec.europa.eu/justice_home/news/consulting_public/news_consulting_0003_en.htm



Development of International Standards

There was significant progress in 2009 in the development of international standards for the protection of personal data and privacy.

The International Standards Organisation (ISO) resolved to establish a Privacy Steering Committee to improve the co-ordination of its work on privacy standards and the International Conference of Data Protection and Privacy Commissioners was able to agree on a joint proposal known as the "Madrid Resolution" which was published at the end of the 31st conference held in Madrid.

A copy of the Press Release by the Spanish Data Protection Authority about this Resolution is reproduced as Appendix B.

Disclosures to HM Revenue and Customs

This matter was originally raised in the annual report for 2007 and was not finally resolved until 2009. The UK Commissioner wrote to the Director at HMRC asking him to ensure that any data relating to offshore account holders resident overseas was processed proportionately and in response HMRC undertook to destroy any data which did not relate to those with a liability to UK Tax.

The Guernsey Commissioner met the Association of Guernsey Banks and emphasised the need to ensure that only relevant information should be disclosed to HMRC.

Immediately prior to the second offshore disclosure campaign in August 2009, HMRC wrote to the Guernsey Commissioner outlining the nature of the campaign and the safeguards that would be put in place.

To date, no further complaints have been received from residents of the Bailiwick about the disclosure of their financial details to HMRC as a result of this second campaign.

Credit Reference Agencies

In the 2006 Report, it was stated that the Home Department had agreed to issue Certificates providing proof that an individual's name and address were included on the Electoral Roll. This scheme was designed to provide assistance to those who were applying for credit as the UK-based credit reference agencies refer to the Electoral Roll to provide proof of an applicant's residential address. Details of the scheme are included in the 'No Credit?' guidance leaflet.

The scheme commenced in July 2007 and Home Department received 11 applications for such certificates in 2007, 13 in 2008 and 24 in 2009. There were no complaints in 2008 or 2009. This level of take-up indicates that the scheme appears to have been beneficial.



E-borders and the Crown Dependencies

“E-borders” has been described as the UK border agencies’⁶ “strategic IT solution to the need for acquisition, joint pooling and analysis of electronic passenger, crew, service and freight information”.

The aim is to maximise the potential to identify individuals who present a threat to the United Kingdom by capturing and sharing traffic data about goods and people crossing the border.

In this context “the border” extends to the border of the Common Travel Area (CTA) which includes the UK, Crown Dependencies (CD’s) and the Republic of Ireland.

The legality of the e-borders programme was endorsed in December 2009 by the European Commission⁷ with some provisos that remain subject to further negotiation with the UK Government, but the Commission stated that it was up to each Member State to establish the legal basis in domestic law for the sharing of such data for travel by EU citizens between Member States and the UK.

It is understood that the Data Protection Commissioners of the CD’s will be consulted during 2010 about the applicability of e-borders to the CD’s.

This matter remains an active topic of discussion within the British, Irish and Islands Data Protection Authorities meeting.

⁶ Border and Immigration Agency, UK Visas, HM Revenue and Customs, Police.

⁷ Letter from Jonathan Faull, Director General, Freedom Justice and Security to Home Office UK Border Agency, dated 17 December 2009, Ref: JLS/D-5/MDF/et (2009) D19374.



NOTIFICATION

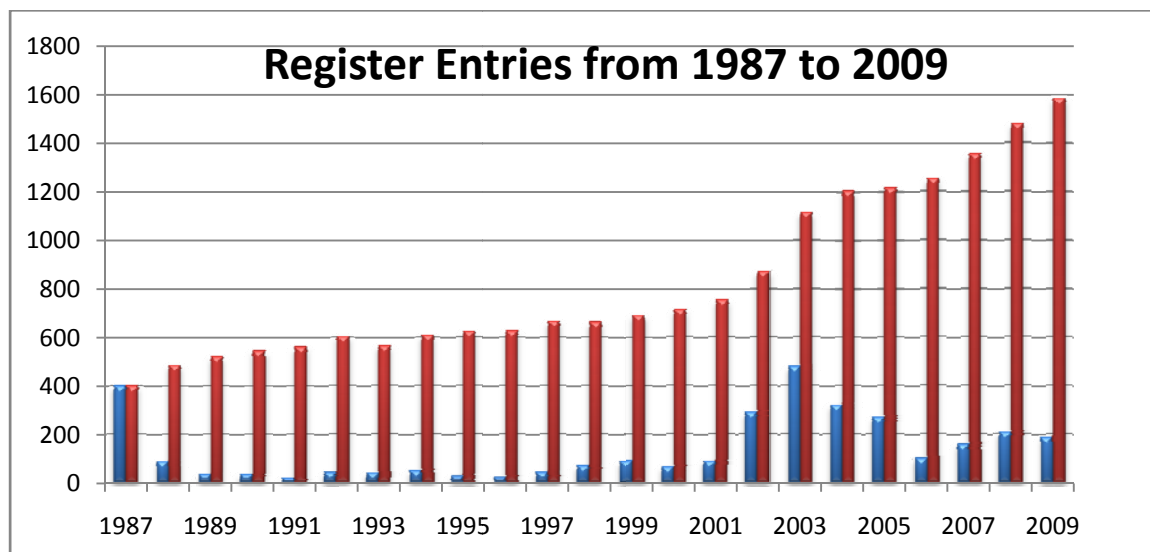
Section 17 of the Law requires Data Controllers to “Notify” the Commissioner of their processing of personal data. This Notification is on an annually renewable basis and covers all processing that is not exempt.

Exemptions from Notification exist where processing is restricted to manual data, for processing by not-for-profit organisations and for the processing of data associated with the core business purposes of accounts, staff administration and marketing. However, exemption from Notification does not relieve any organisation from the requirement to conform to the data protection principles and the remainder of the Law.

The annual fee for Notification remained at £35 throughout 2009, but increased to £50 from 1st March 2010.

Register Entries

The chart shows the sustained increase in the number of Register entries that has occurred since the current Law came into force in 2002.



By the end of December 2009, there were 1586 Notifications on the register, compared with 1479 at the end of 2008.

There were 186 new Notifications and 79 closures during 2009 - a net increase of 107, (compared with 208 new and 85 closures in 2008 - a net increase of 123).

The scanning of the paper records of Notifications continued and by the end of 2009, nearly 90% of the current Notifications and associated correspondence had been scanned into the document management system. It is expected that the wholly electronic storage of historical Notifications will be completed during 2010.



Change of Hosting Service

On 26th March 2009, Eduserv Internet advised the Commissioner that it would be unable to continue to host and maintain the Notification website following the expiry of the annual contract on 31st July 2009.

This news came as a surprise considering that Eduserv had developed and hosted the site over the past eight years. However, under the termination clauses in the contract, Eduserv was required to provide the source code of the notification system and reasonable support to any organisation which took over responsibility for the system after the end of the contract.

The Notification site is used not only for on-line notification by data controllers, but also provides an essential component of the Office administration system.

Eduserv had developed the site (by adapting the pre-existing notification system written for the UK Commissioner) using a scripting language [PERL] and back-end database [Postgres] that were unfamiliar to many local software specialists, so it was quite a challenge to find a service provider able to provide the required level of support and hosting capability in a relatively short time.

The prospect of developing an equivalent notification system from scratch using a different language and database environment in less than four months was not an attractive or cheap option and, following consultation with both the Treasury and Resources IT Unit and the Home Department IT Section, was discounted.

Accordingly, local software company Digimap, (an existing IT partner of the States of Guernsey), was asked to undertake an investigation to determine the feasibility of migrating the site to a local hosting service whilst ensuring the continued maintenance of the existing source code of the online notification system and its associated database environment.

Digimap proposed using a resilient hosting service established on Guernsey and offered to undertake the migration and ongoing software maintenance itself, on a fixed price contract basis.

The migration project proceeded smoothly (with some assistance from Eduserv) and the entire system was transferred and operational before the end of June, one month before the end of the Eduserv contract.

However, routine security testing undertaken following the migration revealed potential weaknesses in the original source code and its environment, which took a further two weeks' work to rectify, but incidentally served to demonstrate Digimap's competence to maintain and update the software system and its environment.

Further maintenance activity, predominantly involving the correction of other latent problems with the original software, proceeded satisfactorily for the remainder of the year and an amendment to the



system was completed in December to prepare for the increase in notification fees that was due from 1st March 2010.

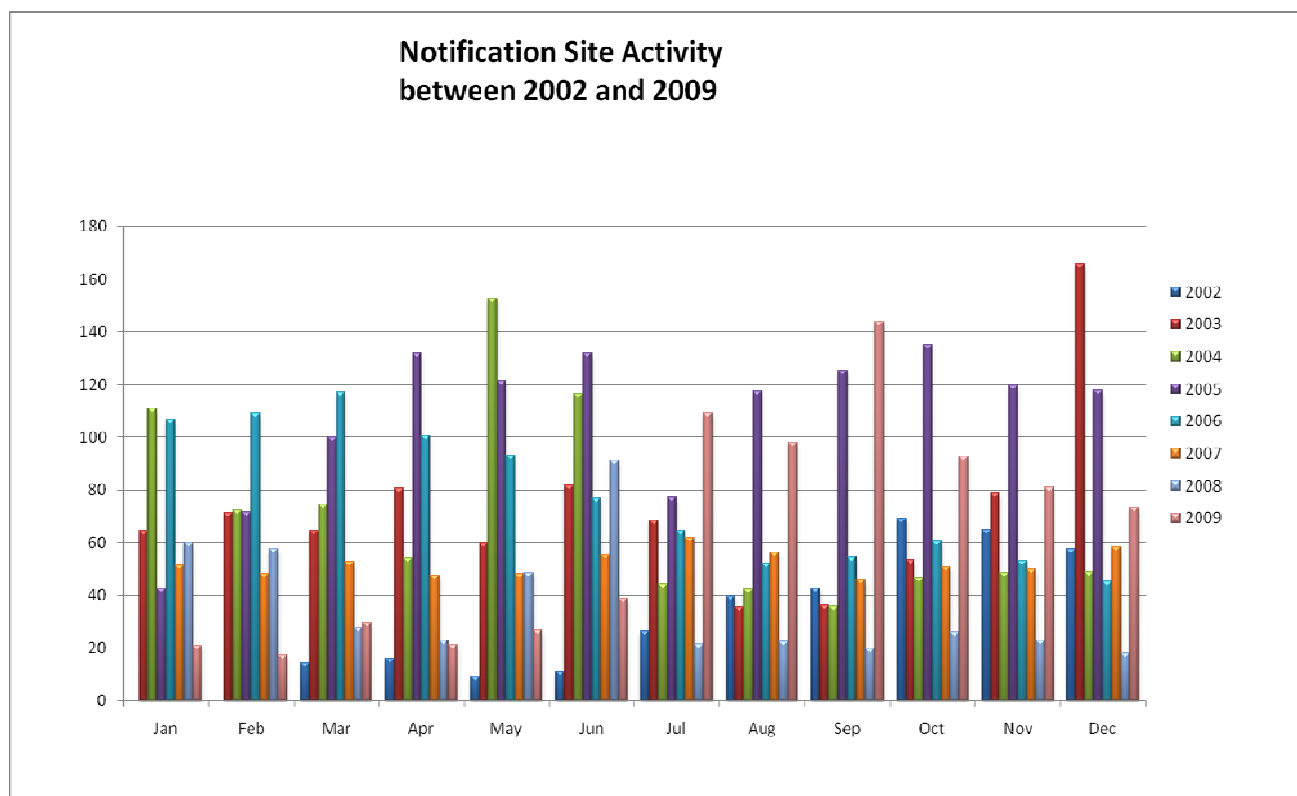
It is planned to upgrade the system during 2010 to incorporate use of the States of Guernsey Corporate Address File.

Internet Statistics

One of the casualties of the migration was the need to change the method of collection of Internet statistics, as the previous method had employed in-house software at Eduserv which it was not practical to migrate.

It was decided to use Google analytics for the new system, but this meant that the new statistics were not entirely comparable to those taken from the original system.

The Google statistics for the six months between 1st July and 31st December 2009 showed that the site usage varied between a minimum of 72 and maximum of 201 visits per week and averaged around 150 visits per week. The figures for the first six months of the year, compiled using the Eduserv statistics software, had been significantly lower than that.

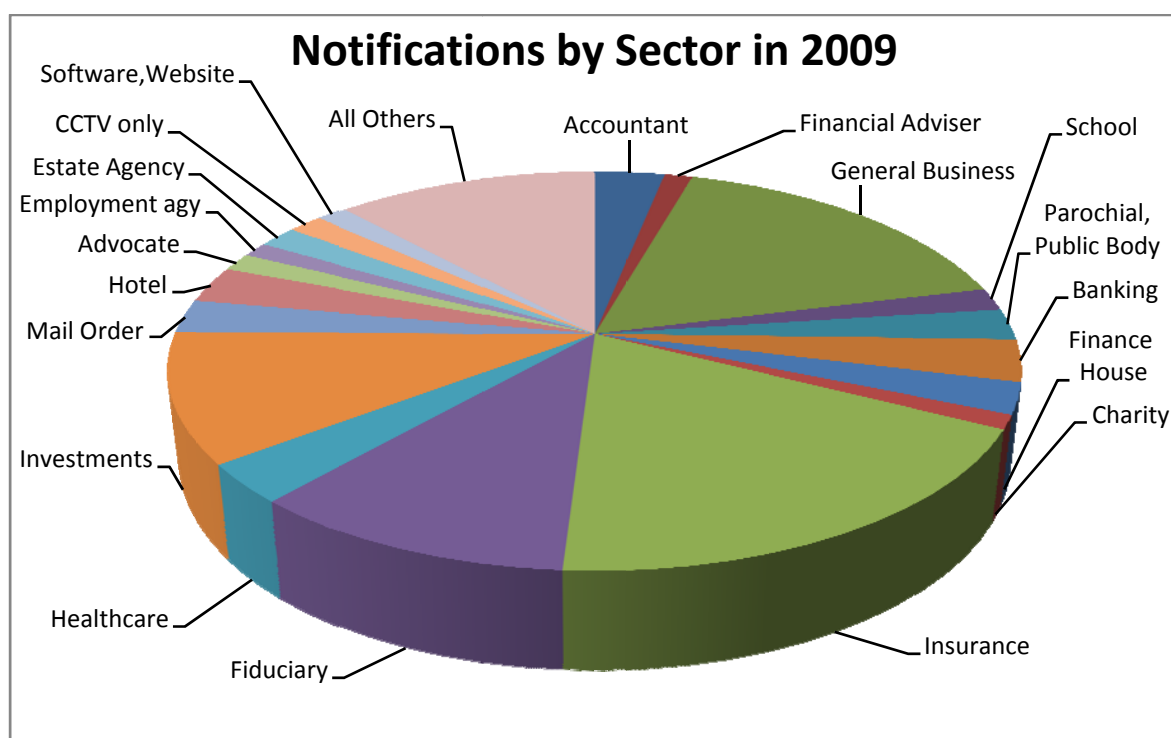


The chart above shows the Google statistics overlaid on the Eduserv statistics to give an indication of the trends in utilisation of the notification website between 2002 and 2009.

Notifications by Sector

The Notification process requires data controllers to indicate the nature of their business activity. This requirement not only simplifies the process, as it allows for the generation of a standardised draft Notification based on a template, but also enables an indicative record to be maintained of the number of Notifications by industry sector.

The pie chart below represents the breakdown of notification templates for 2009 by industry sector; changes in percentages since 2008 are relatively small, with the sectors showing the most increase being Insurance (up from 20% to 23%), Fiduciary (from 12% to 13%) and Investments (from 11% to 13%).



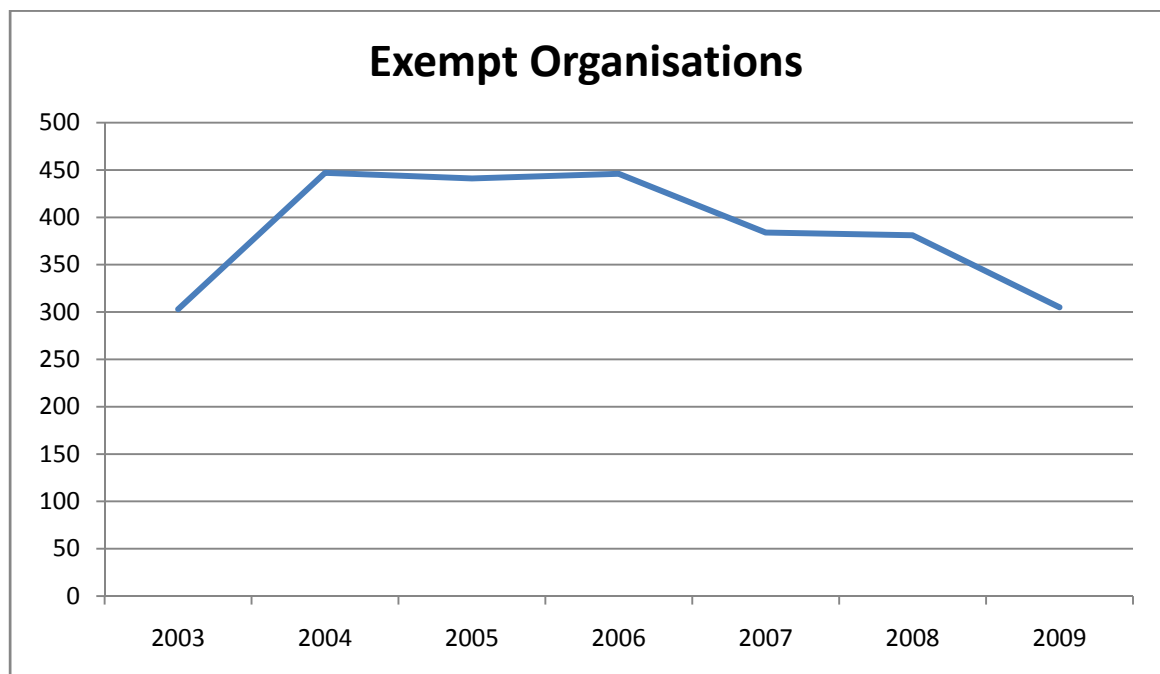
Exemptions

Exemptions from the need to Notify may be claimed by those whose processing is limited to the core business purposes of accounts & records, staff administration and a limited amount of marketing to existing clients.

An exemption is also available to most voluntary organisations, charities and to those whose processing is limited to manual data. However, once CCTV is used by an organisation for the prevention and detection of crime, these exemptions from Notification are lost.

Organisations that are exempt may choose to Notify voluntarily, thereby relieving themselves of a responsibility to provide information on request under section 24 of the Law. The number of voluntary Notifications rose to 42 (3% of the total). This figure is expected to increase in 2010 once non-profit organisations become exempt from the payment of a notification fee.

The trend in the number of organisations that have claimed exemption from Notification is shown below. Of the 305 organisations who claimed an exemption in 2009, 158 (52%) were for the core business purposes, 72 (24%) processed manual data only, 29 (9%) were not for profit organisations, 14 (4.5%) held corporate data only, 7 (2%) were trading subsidiaries and the remaining 25 (8%) claimed an exemption for various reasons (including not being a local data controller).

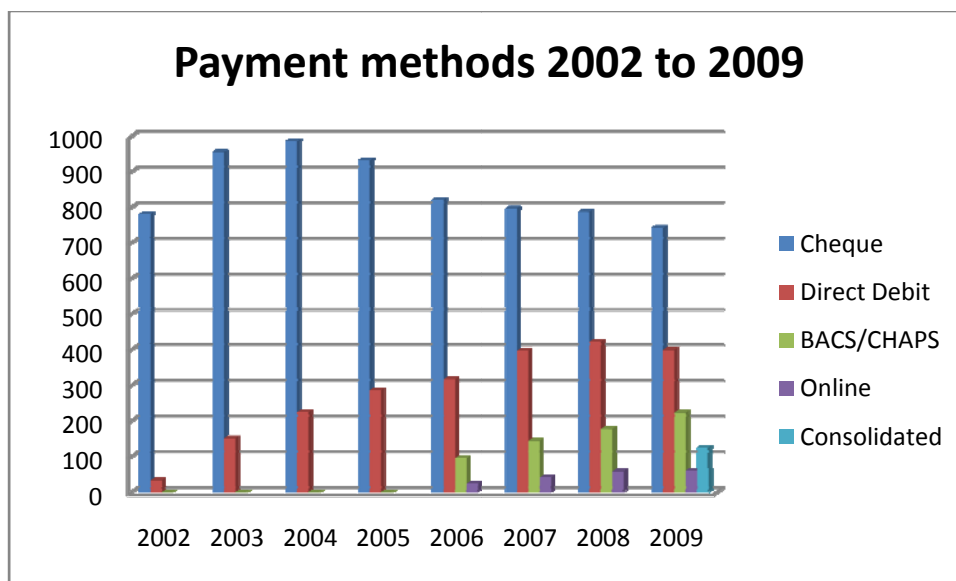




Payment and communications methods

The Notification fee may be paid by cash, cheque, direct debit, bank transfer (BACS/CHAPS) or Online using the States payment portal. Some organisations which are responsible for the administration of a large number of notifications were offered the facility to renew them by means of a single consolidated payment.

The trend in payment methods between 2002 and 2009 is shown below.



Although more than half of the renewals were paid by cheque, the number of BACS and online payments continued to rise. The number of individual Direct Debit payments saw a slight reduction because of the effect of consolidated payments, which are shown separately.

1,234 notifications (78%) included an email address for communication purposes, compared with 1,256 (85%) in 2008; the reason for the fall is predominantly due to the fact that 125 email addresses were removed from those notifications which were renewed using consolidated payments. When those were taken into account, the email percentage rose back to 84%.

Where possible, receipts were sent electronically to those who had provided a valid email address.

Second reminders were issued to 175 (292) controllers. It was necessary to resort to final reminders in 60 (39) cases; this resulted in some payments being overdue.

There were 2 referrals to the Law Officers (3 in 2008) which resulted in the overdue fees being paid, but 0 (2) police cautions were issued.



STAFFING AND STAFF DEVELOPMENT

Schedule 5 to the Law provides that:

“2. (1) The Committee [the Home Department] must make available to the Commissioner such number and descriptions of staff as he may reasonably require for the proper and effectual discharge of his functions.”

There was no change to the staff complement during 2009, which in the Commissioner's opinion represents the minimum level necessary for the effective performance of his functions.

The Commissioner is a statutory public appointment, but members of his staff are seconded from the Home Department of the Civil Service and are wholly responsible to him.

The Assistant Commissioner devotes the majority of her time to compliance activities, responding to enquiries from individuals and organisations and delivering training to the public and private sectors.

The Personal Assistant, who works part time, undertakes all of the administrative activities for the office including the processing of Notifications, payment of bills and the reconciliation of the accounts.

The Commissioner is keen to encourage the academic, technical, administrative and professional development of his staff and to that end supports their attendance at training courses, relevant conferences and other forms of personal development.

The Commissioner himself remains a member of the E-commerce and IT Advisory Group of the GTA University Centre and of the Guernsey Digimap Management Board and attends relevant seminars and workshops organised by the GTA University Centre and the Guernsey International Section of the British Computer Society. He continues to work as a member of the International Standards Organisation Working Group and the BCS Information Privacy Expert Panel.

The Assistant Commissioner broadened her experience by attending a case handling workshop, organised by the European Data Protection Commissioners. This was a practical session at which different approaches to the handling of real cases were discussed. It is planned for her to participate in another case management workshop in 2010.



RAISING AWARENESS

There is a continual need to ensure that individuals are made aware of their rights under the Law and organisations that process personal data are made aware of their responsibilities.

The Awareness campaign for 2009 included the following activities:-

- Delivering presentations and training
- Involvement in working groups
- Making use of the media.
- Giving compliance advice
- Developing the Internet web site

Delivering presentations and training

The Commissioner and Assistant Commissioner delivered talks and presentations throughout the year to many professional associations and organisations in the public and private sectors. These included: States departments, nursing homes, finance institutions, retail businesses and voluntary organisations.

The total audience reached in this way in 2009 was around 390 compared with 380 in 2008.

In addition to partaking of formal training, any organisation may obtain a copy of a training DVD entitled: "The Lights are On", produced by the UK Information Commissioner. Approximately 30 copies of this DVD, which are obtainable free of charge from the Commissioner's Office, were distributed in 2009.

Involvement in Working Groups

The Commissioner and Assistant Commissioner continued to liaise with the States Data Guardians Group. The activities of the group have initially been involved with the establishment of data sharing protocols between various departments and sections within the government.

In addition, the Commissioner provided specific data protection advice in his capacity as a co-opted member of the Land Registry Steering Group and the Criminal Justice IT Working Group and through his attendance at meetings of the Digimap Management Board.



Making use of the media

10 articles or letters relating to Data Protection were published in the local media during 2009, (the same number as in 2008). Topics covered included:

- Identity theft;
- Disclosure of the identity of public servants;
- Credit card security;
- Privacy issues with social networking;
- Mobile telephone directory service (118 800);
- Case studies from the annual report;
- Amendments to legislation
- A who's who publication that appeared to be a scam.

The Commissioner is appreciative of the positive support he receives from all sections of the media to his awareness campaigns.

Guidance Notes

One additional guidance note on subject access to health records was issued in 2009.

A full list of the 32 available publications is given overleaf. These are available in hardcopy as leaflets or booklets and are published on the Commissioners website⁸.

Approximately 630 hard copies of the literature were distributed to individuals and organisations during 2009, compared with 566 copies in 2008.

These figures are in addition to the unknown number of electronic copies of these guidance notes that were viewed or downloaded from the website.

⁸ www.gov.gg/dataprotection then navigate to: Guidance Notes, selecting General Guidance, Guidance for Organisations, Guidance for States Members and Departments, or Guidance for Individuals.



Guidance Notes published by the Data Protection Office

Baby Mailing Preference Service: <i>How to stop the receipt of unwanted mail about baby products</i>
Be Open...with the way you handle information: <i>How to obtain information fairly and lawfully</i>
CCTV Guidance and Checklist <i>Explains how to comply with the law in relation to the use of CCTV</i>
Charities / Not-for-Profit Organisations
Data Controllers: <i>How to comply with the rules of good information handling</i>
Dealing with Subject Access Requests
Direct Marketing - A Guidance for Businesses
Disclosure of Medical Data to the GMC
Disclosures of vehicle keeper details <i>Explains when vehicle keeper details can be disclosed</i>
Exporting Personal Data
Facebook - How to protect your Privacy
Financial Institutions
Health Records - Subject Access
Individuals - Your rights under the Law
Mail, telephone, fax and e-mail preference service <i>How to stop the receipt of unsolicited messages.</i>
No Credit: <i>How to find out what credit references agencies hold about you and how you can correct mistakes</i>
Notification - a Simple Guide
Notification - a Full Guide
Notification Exemptions
Personal Data & Filing Systems <i>what makes information "personal" and explains what manual records are covered by the Law</i>
Privacy Statements on Websites - a Guidance
Respecting the Privacy of Telephone Subscribers
Rehabilitation of Offenders : <i>Guidance on Applying for Police Disclosures</i> <i>Code of Practice & Explanatory Guide</i> <i>Disclosure Policy for Police</i>
The Data Protection Law and You: <i>A Guide for Small Businesses</i>
Spam - How to deal with spam
States Departments - a Guidance
Transparency Policy
Trusts and Wills - a Guidance
Violent warning markers: use in the public sector <i>How to achieve data protection compliance in setting up and maintaining databases of potentially violent persons</i>
Work References

Developing the Internet Web Site

Work continued throughout the year to keep the information on the official website www.gov.gg/dataprotection up to date.

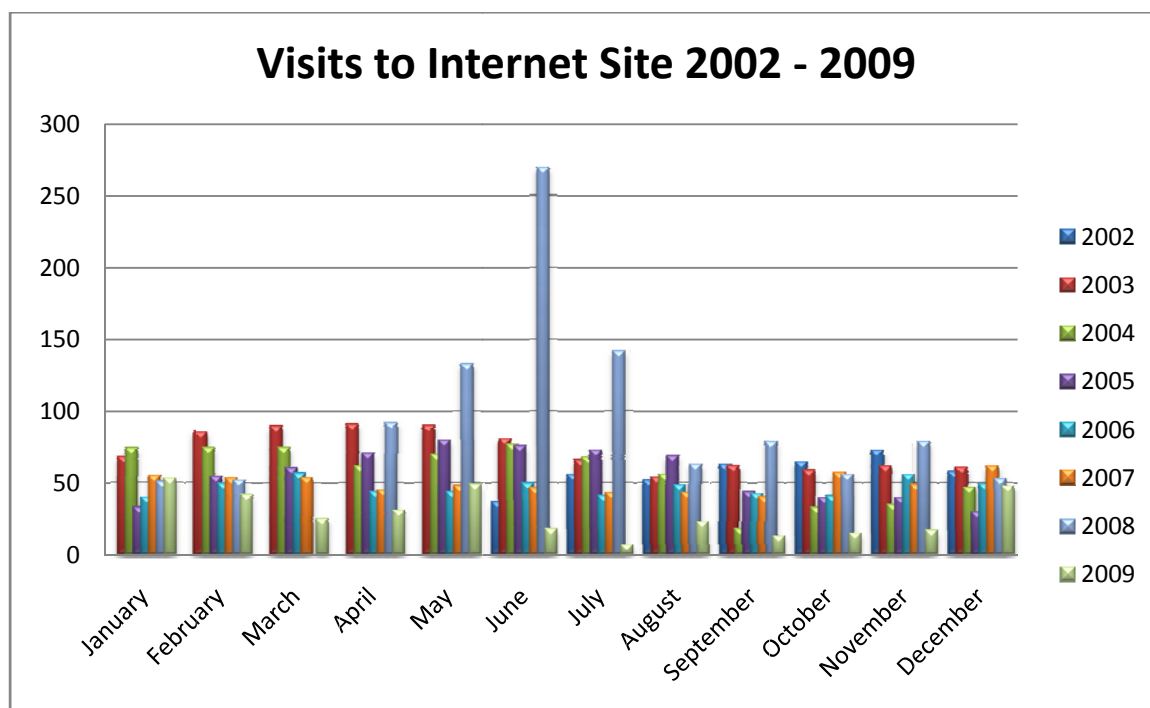
Google Analytics reported a 70% fall in the page views from 1,031 in 2008 to 309 in 2009.

The chart below includes statistics collected for the years 2002 to 2009 and shows that 2008 was a particularly active year for the website, possibly on account of the interest that was generated in the website breach.

These figures exclude accesses to the Notification site www.dpr.gov.gg, which are counted separately.

Currently, it would appear that about 25 to 30 unique pages are being accessed each month. This compares with a long term average of about 50 pages. The most accessed pages are those relating to the Law and the Guidance Notes.

Whilst the number of accesses is at a lower level than in the past, it is clear that the provision of information on the website reduces the number of routine enquiries that would otherwise be dealt with over the telephone or by letter. The website also provides the facility for specific enquiries to be submitted via email.



Registrations with the Preference Services

The Telephone Preference Service (TPS)⁹ allows individuals to opt-out of the receipt of unsolicited telephone marketing calls, whereas the Corporate Telephone Preference Service (CTPS) offers a similar service for use by commercial organisations.

The Fax Preference Service (FPS)¹⁰ allows any individual or business with a fax machine to opt out of the receipt of unsolicited marketing faxes.

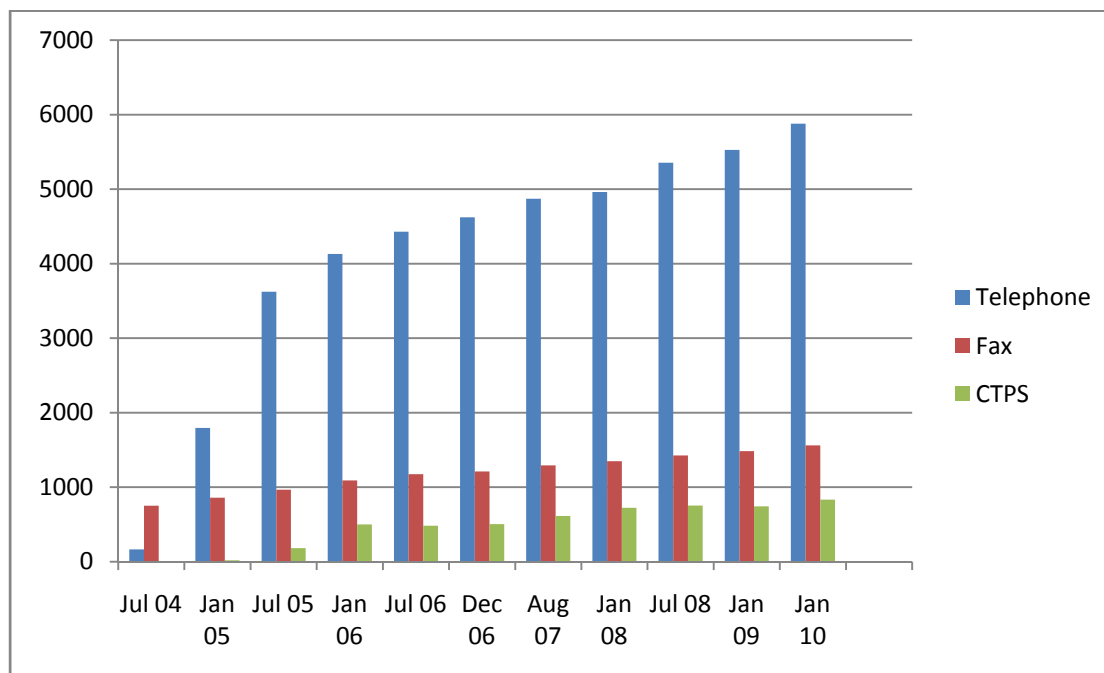
Since 2004, the Office has assisted 476 individuals to register with the TPS and FPS services, but nowadays most people register for themselves by telephone or online. In 2009 just 6 such registrations were made by the Office, compared with 14 in 2008 and 152 in 2005.

The chart below, derived from data kindly provided by the Direct Marketing Association, shows that overall registrations for TPS continue to show a small increase, with 5,878 numbers having been registered at the end of 2009, compared with 5,527 at the end of 2008.

Registrations for FPS have increased by from 1,484 to 1,561 and those for CTPS have risen from 743 to 833.

Registrations for TPS represent about 11% of all the residential and business subscribers on fixed lines in the Bailiwick.

Registrations with the Preference Services



⁹ www.tpsonline.org.uk

¹⁰ www.fpsonline.org.uk



ENFORCEMENT

The Law provides for a number of offences:-

- a) Failure to notify or to notify changes to an entry;
- b) Unauthorised disclosure of data, selling of data or obtaining of data;
- c) Failure to comply with a Notice issued by the Commissioner.

The Commissioner may serve an Enforcement Notice where he has assessed that a controller is not complying with the principles or an Information Notice where he needs more information in order to complete an assessment. With the advent of the Privacy in Electronic Communications Regulations, the Commissioner's power to issue Notices was expanded to cover non-compliance with those Regulations.

Notices

No Information or Enforcement Notices were served during 2009.

Police Cautions

Some data controllers do habitually ignore final reminders to renew their Notifications, resulting in the need for follow-up action.

In 2008 two Police Cautions were administered for this reason, the same number as in 2007. There were no Police Cautions administered during 2009, although there were two referrals to the Law Officers, which resulted in the late renewals finally being completed.

Dealing with Requests for Assistance

The Office deals with numerous general enquiries and requests for assistance each year.

The source of these requests can be letters, telephone enquiries, emails and personal callers into the office.

Substantive enquiries that involve some effort to resolve are recorded by the Office. During 2009 the Office recorded 23 substantive enquiries by email, 35 by letter and 4 from individual callers. Detailed records were not kept of general telephone enquiries, though it is planned to commence a record of these in 2010.

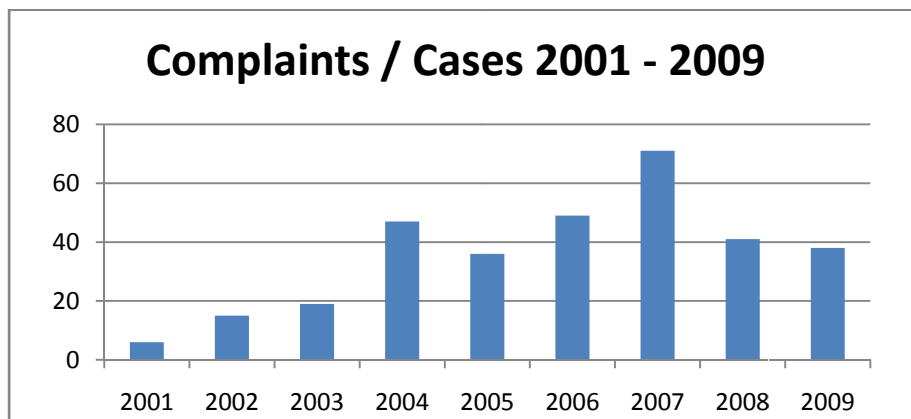
A sample was taken of the general telephone enquiries received in December, which revealed that the main queries related to: subject access to information, notification, marketing and specific questions about data transfer, retention and sharing.

Those cases which resulted in formal complaints, requests for assessment or other actions are dealt with below.

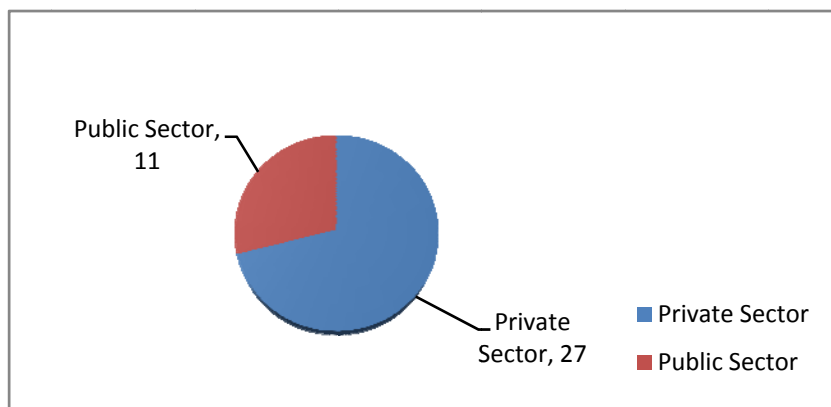


Complaints / Cases

There were 38 complaints received by the Commissioner during 2009, 2 of which were brought forward from 2008 and another two carried forward to 2010. One of these complaints was against 8 separate data controllers; it is recorded as one *case* as it was determined that the complaint had no substance. The investigation did, however, incur a significant amount of time and effort. Another case necessitated the investigation of a complaint which involved 2 States Departments.



The chart above shows the number of complaints / cases received over the last 8 years. The significant increase in 2007 was due to the disclosure of Guernsey residents' personal details by UK banks to the HMRC; these 29 complaints were referred to the UK Commissioner.



This chart shows that, of the 38 cases, dealt with in 2009, 27 related to the private sector and 11 to the public sector.

Of those 27 private sector complaints, 2 were referred to the UK, 3 to Jersey and 1 to Iceland. The referrals to the UK and Jersey concerned unsolicited marketing while the referral to Iceland concerned the alleged publication of Landsbanki depositors' details on a website.

26 complaints were upheld, 8 were not upheld and 4 were not progressed. Some individuals do not progress their complaints when, after liaison with the Data Protection Office and after consideration of other factors, they realise that pursuing the complaint would result in little or no particular benefit to them.



Case Studies

Case Study 1 – Guernsey Pub Watch and the Police

A complaint against Guernsey Pub Watch and Guernsey Police was received in 2008 and, due to its complexity, was not finally resolved until 2009.

The substance of the complaint was that a Pub Watch ban imposed on an individual and the subsequent circulation of his police photograph to Pub Watch Scheme licensees constituted a breach of the Data Protection Law.

Guernsey Pub Watch was based on the Pub Watch schemes in the UK, which exist for the prevention and detection of crime on licensed premises. A scheme comprises the voluntary membership of licensees, who elect a Committee to sanction the banning from their premises of any individual who has either committed an offence, or who has caused trouble, on their premises. The decision making process at these meetings must be carefully documented to show that any action taken is compatible with the prevention and detection of crime.

The Police should normally have a restricted role at Pub Watch meetings. The Crime Prevention Officer should be the nominated representative of the Police whose function would be to inform the Committee of the nature of any offence and the sentence imposed by the Courts on an individual who has been found guilty of committing an offence on or near licensed premises. In the event that a ban is imposed then after due consideration of all the facts the Police might provide the Committee with copies of the individual's photograph for circulation to licensees on the scheme.

On investigating the complaint it was apparent that the Police had been too closely involved in the administration and operation of the scheme, rather than merely providing advice and guidance.

The Chairman's role had been limited to participating in discussions as to whether or not to enforce a ban. Other Committee members were not officially elected and the composition of the Committee would vary from meeting to meeting thus providing little or no continuity.



Guernsey Pub Watch did not satisfy the criteria of being a data controller and were not notified as such.

Accordingly, the data protection complaint was assessed in relation to the Police. The assessment concluded that the Police involvement had resulted in breaches of five data protection principles. The Police accepted the assessment and undertook to address all of the matters that had been identified.

The Commissioner decided that the photographs of the individual should be returned by the licensees to the Police and recommended that the constitution of Guernsey Pub Watch should be revised to strengthen the role of the Committee and reduce the role of the Police to be an advisory one.

As a result, Guernsey Pub Watch is now in the process of being reconstituted and has notified as a data controller. The role of the Police has been reduced to that of an advisory capacity.

Case Study 2 – Mobile Number Portability (MNP)

MNP was introduced to Guernsey on 1st December 2008. From that date mobile customers were able to change their mobile telephone operator and keep their full number, including the dialling prefix.

Under the provisions of the voluntary MNP Code of Practice agreed by all mobile telephone operators, the transmission of any marketing information to a former customer in an attempt to 'win back' custom is prohibited for a period of 60 days following the porting of that customer's number [referred to below as the "Prohibition Period"].

The Commissioner was asked to rule on whether the practice of unsolicited direct marketing by email or SMS to a former customer of a mobile telephone operator after the end of the Prohibition Period would be lawful.

Following the end of the Prohibition Period, the provisions of the Electronic Communications Regulations¹¹ become particularly relevant. Note that in the Regulations "electronic mail" is taken to include SMS. Regulation 20 states that:

¹¹ The European Communities (Implementation of Privacy Directive) (Guernsey) Ordinance, 2004; The European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Sark) Ordinance, 2004; The European Communities (Implementation of Council Directive on Privacy and Electronic Communications) (Alderney) Ordinance, 2009.

"20. (1) This section applies to the transmission of unsolicited communications by means of electronic mail to individual subscribers.

(2) Except in the circumstances referred to in subsection (3), a person shall neither transmit, nor instigate the transmission of, unsolicited communications for the purposes of direct marketing by means of electronic mail unless the recipient of the electronic mail has previously notified the sender that he consents for the time being to such communications being sent by, or at the instigation of, the sender.

(3) A person may send or instigate the sending of electronic mail for the purposes of direct marketing where -

(a) that person has obtained the contact details of the recipient of that electronic mail in the course of the sale or negotiations for the sale of a product or service to that recipient;

(b) the direct marketing is in respect of that person's similar products and services only; and

(c) the recipient has been given a simple means of refusing (free of charge except for the costs of the transmission of the refusal) the use of his contact details for the purposes of such direct marketing at the time that the details were initially collected and where he did not initially refuse the use of the details, at the time of each subsequent communication.

(4) A subscriber shall not permit his line to be used in contravention of subsection (2)."

The Commissioner interpreted that section to mean that a mobile telephone operator may send marketing messages to an existing customer who has consented to, and not subsequently opted out of, the receipt of such messages.

In the case of a former customer, the Commissioner interpreted the Regulations to mean that any consent, which may have been obtained for direct marketing purposes whilst the individual was a customer, should be considered to have lapsed at the end of the Prohibition Period.

Accordingly, he ruled that mobile telephone operators should not send marketing communications [by email or SMS] to former customers who had not subsequently provided their express consent to the receipt of such marketing communications.

*Case Study 3 – Inappropriate subject access requests**(a) Medical Records*

A family had moved from Guernsey to the United Kingdom (UK) and the National Health Service asked the parents for the vaccination record of their child. The parents, under the Data Protection Law (the Law), requested a copy of their child's medical records from a local medical practice. It was their intention to give this copy to the new GP in the UK.

In response to the request they were provided with a printout summary of the child's medical history which included an account of all immunisations which the child had received.

The parents complained to the Commissioner that the local medical practice had not provided the complete medical record and so had not abided by section 7 of the Law which gives individuals or their representatives the right of access to their personal information.

Under section 7(1)(c) of the Law an individual is entitled to have communicated to him in an intelligible form "the information constituting any personal data of which that individual is the data subject". This means access to information but not necessarily the right to obtain copies of all documents which may contain that information.

The parents had received a printout which summarised the medical history and they admitted that this summary was comprehensive and adequate enough for their child's present needs. They accepted that the medical practice had responded adequately to the subject access request. However it is preferable that the new GP should have the complete medical record and this is best achieved by GPs transferring records between themselves provided they do so with the necessary consent.

This is a case which illustrates that using the subject access route is not always the most appropriate way for individuals to obtain the information which is most relevant to their needs.

(6) Criminal Records

An individual was asked by a prospective employer to provide a copy of his criminal record. This individual made a subject access request to the police and subsequently received a report on offences which were committed a long time ago and which were now considered as spent. He complained to the Data Protection Office that the police had provided irrelevant and excessive information.

He was advised that the police had responded correctly to his request in that they had provided the information which constituted his personal data and they had provided that information in an intelligible form. He was further advised that if the new employer only needed information about unspent convictions then a request for a Basic Police Disclosure should have been made instead of a subject access request. He subsequently requested a Basic Police Disclosure and obtained the information which the employer actually required.

The Commissioner would advise that individuals give careful consideration to the information they actually need for which specific purposes before making subject access requests.

Case Study 4 – Subject access requests for the purpose of litigation

The right of subject access is enshrined within the European Directive 95/46/EC, "...any person must be able to exercise the right of access to data relating to him which are being processed, in order to verify in particular the accuracy of the data and the lawfulness of the processing..."

The Directive further provides that subject access "shall be without constraint and at reasonable intervals and without excessive delay or expense"

Therefore the rationale behind subject access is that individuals must be able to verify if the data processed about them are accurate and that the processing of the data is lawful. This is particularly relevant to the consideration of the processing of health data.



Typically, when individuals request access to their health data and / or ask to have particular treatments explained to them this is done within the health professional / patient relationship.

However, it was brought to the Commissioner's attention that the medical practices on the island and the Health and Social Services Department frequently receive subject access requests from members of the legal profession on behalf of their clients. These requests are typically in pursuit of litigation.

The practices reported that these requests can prove to be quite onerous in that all the information recorded on a patient is requested rather than just specific limited information. Therefore a lot of time and effort is expended to meet the request and only £10, the statutory maximum subject access fee, can be charged for all the effort taken.

*As previously stated, the primary reason for giving an individual the right to access his personal data should be so he can verify its accuracy and whether or not the data are processed lawfully. The pursuit of litigation would not be in keeping with the purposes stated in the Directive. This was reinforced in the Appeal Court judgement of *Durant v. Financial Services Authority*¹² when Auld LJ ruled that the subject access route should not be used for the purpose of pursuing litigation, especially litigation against third parties. The Judge ruled that discovery of documents should be the preferred method to be used.*

Under subject access a person may only access his own personal information but when discovery is used non-personal information may also be accessed and a response can be requested in a shorter period of time. There may therefore be an advantage in taking the discovery route.

During 2009 the Commissioner issued a new guidance note entitled "Subject Access to Health Records" in which he explained the circumstances where the use of data protection legislation to obtain information for the purpose of litigation might be considered to be inappropriate.

¹² *Durant v Financial Services Authority* [2003] EWCA Civ 1746

*Case Study 5 – Abandoned vehicles*

A member of the public complained to the Commissioner that the Environment Department had unlawfully disclosed his name and address to the Housing Department. He further alleged that when he complained to Environment he was informed that Housing had accessed the information directly.

The individual had received a letter from Housing advising him that if he did not remove his motor vehicle from States owned land action would be taken to dispose of the vehicle and that he would be liable for the costs incurred. He went on to explain that he had sold the vehicle and so Environment should not have disclosed his personal details as he was no longer the registered owner of the vehicle. He claimed the new owner had taken possession of the vehicle three weeks before and he had sent notification of the change of ownership to Environment using the correct documentation.

If this complaint had substance it would mean that Environment had breached at least two data protection principles, i.e. the fourth principle by not keeping accurate and up to date records and the seventh principle by making an unauthorised disclosure and permitting another States department to directly access information.

The investigation revealed that Housing had not directly accessed the information but had requested it in writing on the grounds that the vehicle was “illegally parked”. As an offence was alleged to have been committed Environment had not breached the seventh principle. Section 29 of the Law permits the disclosure of personal information for the prevention and detection of crime.

Environment also provided a copy of the “Notification of Change of Keeper of a Registered Motor Vehicle” which had been completed by the complainant. The form had been stamped as being received on the same day that the complainant had been contacted by Housing. However the log book had not been received by the Department. The complainant was therefore still regarded as the registered vehicle keeper and so the record was accurate. It was concluded that Environment had not breached the data protection principles.

Housing was then asked to clarify where the car was actually parked. The information had been obtained on the grounds that the car was "illegally parked". Illegal parking can only occur on public land yet the letter which the complainant received referred to States owned land. Housing confirmed that the vehicle was parked in a Housing Department car park on one of its Housing Estates; it was private land which had not been designated 'Terre L'Amende'.

As the vehicle had not been "illegally parked" Housing appeared to have obtained the information on a false ground. The Commissioner met with representatives from Housing, Environment and the Law Officers. Housing claimed that in obtaining information to deal with abandoned vehicles it was acting within its mandate of carrying out its public functions and therefore the obtaining and subsequent processing of the information was justified under paragraphs 5(c) and 5(d) of the Data Protection Law; abandoned vehicles could pose health and safety risks and the Department had a responsibility for health and safety on its estates.

Whilst the Commissioner understood this view he expressed concern that reliance on paragraphs 5(c) and 5(d) might become the norm for the disclosure of personal data between States Departments. He therefore recommended the Home Department to draft an Order under section 6(2) of the Data Protection Law that would legitimise the disclosure of personal data relating to a registered keeper of a vehicle which appears to have been abandoned. Such a provision would be of assistance not only to the Housing Department but to other States Departments as well as private landowners. The Home Department agreed to draft this Order.

The Commissioner stated that, until the Order comes into force, the Housing Department may continue to obtain information of vehicle keepers but must not do so on the ground of "illegal parking". It must also erect a limited number of appropriate worded signs at strategic points on its Housing Estates to inform drivers that it will take action against owners of abandoned vehicles. This is an obligation imposed by the first data protection principle that all processing must be fair and transparent. Even when the Order comes into force this obligation under the first principle must still be met.

*Case Study 6 – Employment questionnaire*

The following complaint was not upheld by the Commissioner, but on his recommendation, company procedures were revised.

An individual considered that his privacy was being invaded by his employer's requirement for him to complete a questionnaire. He complained that a lot of very sensitive personal information had to be provided on the form which he considered not to be necessary. The third data protection principle states that personal data must be relevant, adequate and not excessive for the purpose(s) for which it is processed.

The company informed the Commissioner that it is subject to the Food Safety Laws and so is required by the Environmental Health Department to implement Hazard & Critical Point (HACCP) Manuals in all divisions of its business. The questionnaire forms part of the employee health checks which are crucial to any HACCP / food safety manual. The complainant does handle food and so was asked to complete the questionnaire.

The form was intended to be used as a pre-employment questionnaire but as the HACCP manuals had just been implemented the company was advised that current employees should fill in the questionnaire to establish a commencement bench mark. This was explained to all employees and they were informed that they could speak to any of the Directors or the HACCP manager if they were uncomfortable about filling in any part of the form as no part of the form is compulsory for current employees.

On the recommendation of the Commissioner the company stated it would add a "non- applicable" column to the questionnaire which would improve the process of completion.

In addition, the employees would be assured that all information on the form would be accessed only by a nominated person within the company and that it would be subject to doctor / patient confidentiality. The company would act only on advice and directions from the medical examiner in consultation with the employee concerned.

INTERNATIONAL LIAISON

International Conference of Data Protection Authorities

The Commissioner and Assistant Commissioner joined over 1,000 delegates from over 50 countries who attended the 31st International Conference of Data Protection and Privacy Commissioners, which was hosted by the Spanish Data Protection authority and held in Madrid from 4th – 6th November 2009.



Data Protection Commissioners attending the conference during their official visit to the Lower Chamber of Parliament.

The conference comprised public sessions, parallel stream workshops and a closed meeting, which was restricted to Commissioners.

Full details of the conference are available on its website¹³.

A major product of the conference was the “Madrid Resolution”, which aims to define a common set of principles and rights that would guarantee the effective protection of privacy at an international level.

A copy of the press release about the Madrid Resolution is contained in Appendix B.

The 32nd Conference will be held in Jerusalem in October 2010.

¹³ <http://www.privacyconference2009.org>



European Spring Conference

The Commissioner and Assistant Commissioner attended the annual spring conference of European commissioners, which was held from 23rd – 24th April 2009 in Edinburgh¹⁴. They also participated in a 'fringe' workshop organised by Privacy Law and Business, in their role as contributors to a survey about data breach legislation in Europe.

The conference centred around a discussion on the findings of the assessment of the effectiveness of the European Directive on Data Protection¹⁵. This had been undertaken by the Rand Corporation and had been commissioned by the UK Information Commissioner.

Detailed topics included:

- Do we need reforms at all?
- What outcomes should regulation achieve?
- The international context of regulation.

The conference issued a communiqué calling on all European States to ensure that the applicable standard of data protection is respected when concluding international agreements. In this respect the conference advocated including standard data protection clauses in those agreements.

The next European conference will be held in Prague in April, 2010.

International Working Group on Data Protection in Telecommunications

The Commissioner attended the two meetings of this International Working Group that were held in 2009.

The 45th meeting was held in Sofia on 12th and 13th March.

The 46th meeting was held in Berlin on 7th and 8th September.

Both Working Group meetings covered similar topics, mainly concerned with the production of papers and draft recommendations addressing the following issues:

- Vehicle Event Recorders;
- Processing of personal data for investigation of copyright offences;
- Deep Packet inspection;
- Proposed Charter of Digital Data Protection and Freedom of information;
- Privacy and email heritage;
- Privacy and Road pricing;
- Storage of SMS messages for Law enforcement;

¹⁴ <http://www.ico.gov.uk/springconference2009.aspx>

¹⁵ http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/review_of_eu_dp_directive_summary.pdf



- Social networking;
- Use of location information;
- Geospatial data;
- International standardisation.

The papers adopted by the Working Group are published on its website¹⁶. Many of the adopted papers are subsequently submitted to the annual International Conference as draft resolutions for debate during the closed session.

The 47th meeting of the Working Group will be held in Granada in the spring and the 48th meeting will be held in Berlin in the autumn.

British, Irish and Islands' Data Protection Authorities

The Commissioner and Assistant Commissioner joined 13 other representatives of the authorities from the UK, Ireland, Cyprus, Jersey, Isle of Man, Malta, Gibraltar and Bermuda at the "BIIDPA" meeting held on 23rd - 24th July 2008 in Dublin.

This meeting provided an opportunity to meet the newly appointed UK Information Commissioner, Christopher Graham.

The discussions at these meetings are informal in nature, but help to ensure a consistent approach to the treatment of issues which are of common interest. The topics included:

- The Personal Information Protection Act being drafted in Bermuda, which is based largely on the Alberta legislation;
- the introduction of custodial sentences for criminal breaches of the legislation and the advent of civil penalties in the UK;
- notification of security breaches;
- naming of suspects in historic child abuse cases;
- whether blogs published by private individuals were covered by the special purposes and journalistic exemptions;
- legitimacy of use by employers of personal information disclosed on social networking sites;
- jurisdictional issues relating to disclosures of taxation data and passenger name records of travellers, specifically e-borders and its impact on the Common Travel Area;
- different approaches to Freedom of Information.

The delegates were updated on developments within the EU and discussed forthcoming issues to be raised at the international conference.

¹⁶ www.berlin-privacy-group.org



Liaison with the UK Government

Two liaison meetings were held between the Crown Dependencies and Ministry of Justice officials, the first being in London on 21st January and the second in the Isle of Man on 14th October, 2009.

Topics included:

- custodial sentences and civil penalties;
- the EU Information Management strategy;
- the EU Data Protection Framework Decision (2008/977/JHA);
- the Article 31 inter-governmental committee;
- Council of Europe Convention on Access to Official documents;
- Council of Europe Convention 108 and its additional protocol, which has yet to be ratified by the UK.

Data Protection Roundtable

On 26th June 2009, the Commissioner joined a distinguished panel hosted in London by Field Fisher Waterhouse and Data Protection Law & Policy.

The discussion panel included the Chief Privacy Officer for the US Department of Homeland Security, The Data Protection consultant for the government of Bermuda and the Head of the Information Policy Division, Ministry of Justice.

The topic of the roundtable was: Privacy Practices in Government - UK and USA approaches compared.

Data Protection Forum

The Assistant Commissioner attended three meetings of the Data Protection Forum that were held in London during 2009; the topics covered in the meetings included:

- Updates from the Information Commissioner's Office;
- The Surveillance society - implications for human rights;
- 2008 Benchmarking survey;
- Managing information security around third party relationships;
- Cyber Crime and Cyber security;
- The role of standards – BS 10012;
- Fraud.

The Commissioner was invited to join a panel at the annual "Commissioners' Question Time" that was held on 1st September.



Other members of the panel were the Irish Data Protection Commissioner, the UK Deputy Commissioner and the Isle of Man Supervisor.

The Commissioner outlined the changes to the Law, in particular the provisions dealing with cross-border offences.

Attendance at these meetings provides benefits which include:

- networking with key people involved in data protection, in many cases from parent companies with offices in Guernsey ;
- the opportunity to influence data protection policy-making;
- raising the awareness of pertinent issues and future trends that may affect both the public and private sectors.

Information Privacy Expert Panel

The Commissioner attended the three meetings of the British Computer Society [BCS] Information Privacy Expert Panel [IPEP], which were held in London during the year.

One of the functions of IPEP is to provide expert input to inform official responses by the BCS to UK Government consultations on matters relating to privacy and data protection policy.

The IPEP includes members from academia, the public and private sectors and has considered various topics, including drafting responses to UK Government proposals for increased enforcement powers for the Information Commissioner.

The IPEP contributed to the BCS response to the EU Consultation on the future of the Data Protection Directive.

Copies of the BCS responses to consultations may be viewed on its website¹⁷

The cost of attendance at these meetings of the IPEP and at any related meetings is borne by the BCS.

International Standards Organisation

The Commissioner attended one meeting of Panel 5 of the SC27 Working Group of the International Standards Organisation, in London. Remaining work was conducted by email.

This Panel is concerned with the development of International Standards in the ISO 29100 series on information management and privacy. The majority of the work was conducted by email and comprised comments on committee drafts of individual proposed standards. Progress in this area remains slow, since it normally requires international consensus, which is challenging to achieve.

¹⁷ <http://www.bcs.org/server.php?show=nav.5853>



OBJECTIVES FOR 2010

The primary objectives for 2010 encompass the following areas:-

- ***Legislation***

Detailed work on any proposed amendments to the Data Protection legislation will continue as and when appropriate.

- ***Adequacy and International Transfers***

Work will continue to ensure that the European Commission's adequacy finding for the Data Protection régime in the Bailiwick is respected and that international data transfers comply with the eighth Data Protection principle.

- ***British Isles and International Liaison***

Participation in relevant UK, European and international conferences will continue as a means of enhancing the international recognition of the independent status and regulatory prowess of the Bailiwick and ensuring that local knowledge of international developments remains up to date.

- ***Raising Awareness***

The media will be used to continue the awareness campaign and a further series of seminars and talks for the public and private sectors will be mounted.

Collaboration with the Training Agency will continue over the organisation of courses leading to formal qualifications in data protection, such as the ISEB Certificate.

Promotion of relevant training using UK specialists will be done, with training being targeted separately to financial sector organisations, other private sector organisations and the public sector.

The publication of new literature and the review and revision of existing literature will be undertaken as the need arises.

- ***Compliance***

The programme of targeted compliance activities will continue with the aim of increasing the number of Notifications. Rigorous enforcement will continue, including consideration of prosecution of non-compliant organisations.

The monitoring of websites and periodic surveys to assess compliance with data protection legislation and the privacy regulations will continue.



- ***Government***

Close liaison with the States of Guernsey Government departments will continue with the aim of promoting data sharing protocols, incorporating Privacy Impact Assessments into project planning and the further development of subject access procedures.

- ***Administration***

Further paper files relating to past assessments and complaints will be archived to electronic media.

A review of the communications infrastructure will be carried out with the aim of improving both voice and data communications and enhancing their security.

- ***Succession Planning***

The contract of the present Commissioner terminates in September 2011.

Discussions with the Home Department will commence in 2010 in order to plan the appointment of a successor and ensure an orderly transfer of functions in 2011.

**FINANCIAL REPORT**

The Data Protection Office is funded by a grant from the States of Guernsey administered by the Home Department in accordance with Schedule 5 to the Law and based on an annual estimate of expenditure prepared by the Commissioner.

In accordance with Section 3 of Schedule 5 of the Law, all fees received are repaid into the General Revenue Account.

The Income and Expenditure, which are included within the published accounts for the Home Department, have been as follows:

<u>INCOME</u>	2009	2008
	£	£
Data Protection Fees ¹	52,760	49,125
<u>EXPENDITURE</u>		
Rent ²	13,030	15,526
Salaries and Allowances ³	166,996	176,345
Travel and Subsistence	11,171	10,294
Furniture and Equipment ⁴	17,940	12,761
Publications	2,623	3,075
Post, Stationery, Telephone	4,177	4,332
Heat Light, Cleaning	6,918	6,247
TOTAL EXPENDITURE	£222,855	£228,580
EXCESS OF EXPENDITURE OVER INCOME	<u>£170,095</u>	<u>£179,455</u>

NOTES

¹ Fees remained at £35 per notification or renewal of a notification.

The cash received for notifications in 2009 was £54,460 (£50,750 in 2008) representing the 1,556 (1460) annual notifications and renewals that were processed during the year.

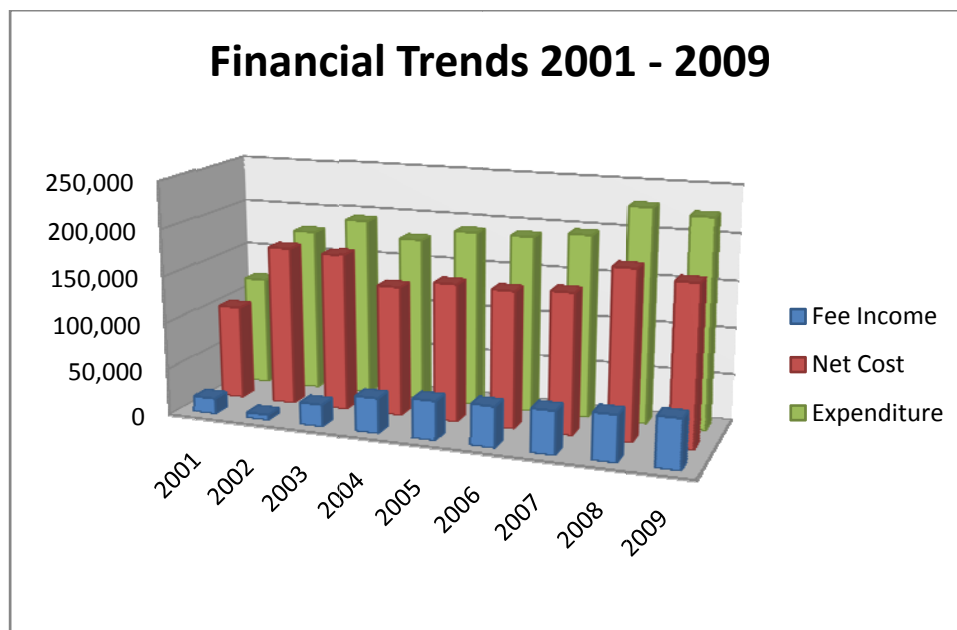
² The rent was reviewed upwards in 2009, but the December rent payment, being an advance payment, will be included in the accounts for 2010.

³ This includes an amount of £7,210 (£25,520 in 2008) for consultancy fees.

⁴ This includes the one-off migration costs for maintenance and hosting of the Notification website, which was transferred from Eduserv to Digimap during 2009.



The financial trends in income and expenditure since 2001 are shown graphically below.



Expenditure for 2009 fell by £5,625 (2.5%), primarily due to the fall in consultancy costs; these were exceptional in 2008 due to the investigation of the website security breach. However, increased costs of around £14,000 in consultancy and computer charges were incurred due to the unplanned need to migrate the Notification website.

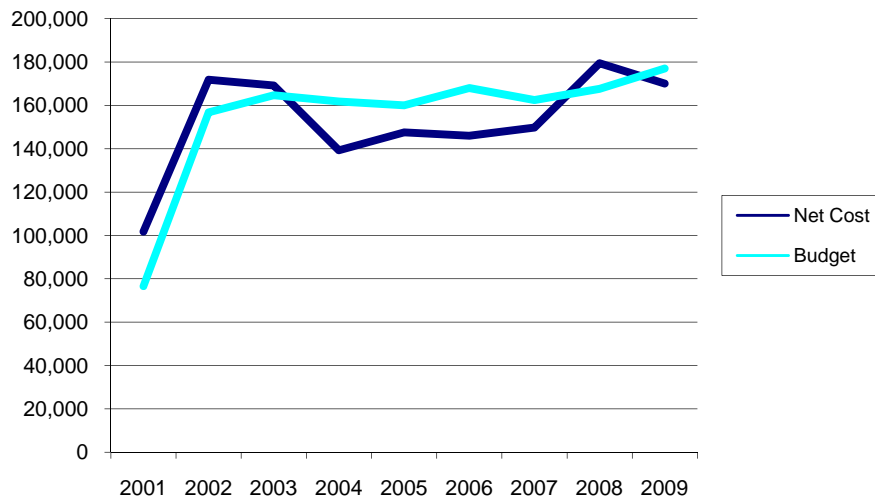
Income from notification fees rose by £3,635 (6.9%) based on an unchanged notification fee of £35.

Hence, the net cost of the Office to the taxpayer fell by £9,360 (5.2%) from 2008 but was 13% above the figure for 2007.

Detailed accounts were submitted to the Home Department in accordance with established practice and as required by paragraph 3 of Schedule 5 to the Law.

Particular effort will be made in 2010 to minimise expenditure and keep well within budget. Income is expected to rise, following the increase in Notification Fees from 1st March 2010, further reducing the net cost.

The chart below depicts the net cost against budget for the years from 2001 to 2008. It can be seen that the cost exceeded budget in 2008, but returned to be within budget in 2009.

**Net cost vs budget 2001 - 2009**

The Commissioner appreciates the continued administrative support that has been forthcoming from the Home Department and is grateful for the continued technical support provided by the ITU.

In accordance with the reporting standards contained within the Internal Audit report, the Commissioner hereby confirms that no gifts or hospitality were received by him or his staff during 2009.



Appendix A - EU Consultation on the legal framework for the fundamental right to the protection of personal data.

Response by the Data Protection Commissioner for the Bailiwick of Guernsey.

1. New Challenges for personal data protection.

- 1.1. The 1995 Directive (95/46/EC) was drafted within an environment where much processing of personal data was visibly concentrated in databanks of manual files or in stand-alone mainframe computers with integral electronic storage devices. Accordingly it was easy to identify a 'data controller', the location where personal data were processed and the relatively limited purposes for which those data were processed, whether manually, automatically or in some combination.
- 1.2. The 1995 Directive appeared primarily to be aimed at the protection of data to a uniform standard to facilitate the exchange of data between Member States in order to promote the operation of the internal market. It did not appear to be particularly concerned with data privacy *per se*.
- 1.3. The inadequacy of the 1995 Directive to deal with personal data within telecommunications networks was recognised within the 2002 Directive 2002/58/EC, which aimed to extend the protection, afforded by the 1995 Directive, to data in such networks and explicitly included data privacy in its objectives.
- 1.4. The commencement of the Lisbon treaty has enabled the extension of the data protection régime to third pillar activities and accordingly calls into question whether, for example, adequacy determinations may be applied to third pillar activities related to third countries in future.
- 1.5. In the interim, the relationship between the Data Protection Framework Decision and the 1995 Directive may need to be refined and clarified.
- 1.6. Any new legislative environment needs to be viewed as having a long term effect such that it is able to cope not only with current challenges, but anticipated challenges over the next ten to twenty years in areas such as:
 - The increasing capability of technology to process vast amounts of personal data;
 - The increasingly distributed nature of both processing and data storage rendering the concept of the location of a controller or the location of processing at best indeterminate;
 - The ubiquitous nature and extent of processing operations and the growth of mobile computing devices;
 - The benefits to be derived from the exploitation of privacy enhancing technologies;
 - The need to protect personal data from increasingly sophisticated attack and exploitation by organised criminals;



- The need to respect and enhance the privacy of individual law abiding members of society (i.e. the over-riding need to comply with the European Convention on Human Rights);
- The increasing pressure by governments and public sector agencies to collect, aggregate and share disparate personal information ostensibly to provide enhanced public services and fight serious organised crime;
- The need to integrate third pillar activities within a consistent legislative framework;
- The need to balance individual rights against societal benefit and the protection of society;
- The increasing tendency for large transnational corporations to collect, share, aggregate and exploit personal data obtained during the course of business transactions in diverse sectors;
- The need for more uniform standards of personal data processing to apply across the EEA;
- The need to recognise the extent to which alternative data protection and privacy standards in force in other countries and territories may offer adequate protection for the data of EU citizens;
- The need for effective enforcement regimes both within the EEA and throughout the world;
- The need for individual users of web-based services, such as social networking to be aware of the privacy implications of publishing personal data of themselves and others on the internet;
- The need for commercial and governmental organisations to be aware of and counter the risks of using web services such as cloud computing and similar developments in future;
- The fundamentally insecure nature of current computer operating systems and networking environments;
- The need for legislation to be as far as possible technology independent and future proof;
- The perceived need for higher standards of protection to be applied to higher risk areas such as:
 - existing categories of sensitive personal data;
 - financial data such as bank accounts and credit card information;
 - data processed by the public sector;
 - behavioural and profiling data such as those collected from users of web services.

2. Does the current legal framework meet these challenges?

- 2.1 There could be a greater emphasis on data privacy rather than merely data protection;
- 2.2 there appears to be divergence between Member States over some of the basic definitions, such as the interpretation of what constitutes personal data;
- 2.3 notification and registration requirements in Member States appear to differ;
- 2.4 sanctions and penalties vary widely within the EU;
- 2.5 the current legal framework does not appear to facilitate or mandate the use of technological means for privacy protection (e.g. encryption, PET);
- 2.6 the process of obtaining adequacy status appears to be bureaucratic, time consuming and ineffective;
- 2.7 the current legal framework does not distinguish between large scale processing of personal data in a third country and processing on an end-users PC, where that PC may be in a third country, hence:
 - Session cookies, which can be essential to the correct operation of web services; and
 - Persistent cookies which in many cases are set to facilitate use by a returning customer;appear to be governed by the same rules as those applied to wholesale data export and processing in a third country by a data processor or “co-controller”;
- 2.8 the provisions on applicable law appear unenforceable; it is often impractical to determine where processing takes place, and the identity of ‘the controller’ may be indeterminate;
- 2.9 even though a third country may be deemed adequate, the Directive does not recognise the applicability of its national law;
- 2.10 the technical difference between transferring data to a third country and using equipment in a third country for processing is often unclear, but different rules apply;
- 2.11 it could be made clearer that the third country provisions are primarily meant to protect the personal data of EU citizens, rather than all data, processed in those countries;
- 2.12 it appears that the protection afforded by legislation flowing from Directive 2002/58/EC may not adequately protect online purchasers of goods and services who may unknowingly agree to unfavourable terms and conditions buried in privacy statements;
- 2.13 The distinction between personal and family processing and public processing is blurred with the advent of blogs and social networks, where personal data may be disclosed without consent within a ‘family’ context.

3. What future action would be needed to address the identified challenges?

Potential areas of action are to:

- 3.1. Ensure a closer approximation between member states in their transposition of the Directive into national law;
- 3.2. Provide uniform rules covering personal data protection, privacy in communications and third pillar processing activities;
- 3.3. Provide a clear set of minimum standards to be applied to the processing of EU citizens' personal data in third countries;
- 3.4. Simplify the bureaucratic process for the determination of the adequacy of a third country;
- 3.5. Build in a requirement for mandatory privacy impact assessment into all public sector project planning;
- 3.6. Reinforce the role of the individual as the owner of his personal data;
- 3.7. Enhance the protection afforded to "online consumers";
- 3.8. Consider whether the reporting of significant breaches of the security of personal data should be mandatory;
- 3.9. Adopt a more risk-based approach, by for example drawing a clear distinction between rules which should apply to processing by:
 - large multi-national corporations;
 - government and law enforcement agencies;
 - smaller national enterprises;
 - Individuals (including processing on personal mobile devices)
- 3.10. Enhance the role of the Article 29 Working Party in setting and enforcing common standards across the EU;
- 3.11. Enhance the role of the EDPS for example in the approval of public sector processing.

Efforts should be made to reach agreement with other countries and groupings such as APEC and standardisation bodies such as ISO with the aim of agreeing the minimum standards that should apply to the processing of personal data in international trade and commerce.

International agreement should aim to reduce the omnibus processing of personal data by law enforcement and governmental bodies without consent. A prime example appears to be airline PNR processing, where the benefits of such processing are by no means apparent.

The scope and range of personal data and the devices on which data are processed nowadays differ dramatically from those which were in place when the Directive was drafted.

A major challenge will be to craft a legislative environment which can cope with the current and anticipated range of software and hardware technologies and the ever increasing scope of personal data processing that will be employed over the next generation.

Appendix B - The Madrid Resolution

Data protection authorities from over 50 countries approve the "Madrid Resolution" on international privacy standards

- **The Madrid Resolution brings together all the multiple approaches possible in the protection of this right, integrating legislation from all five continents. • It constitutes the basis for the drawing up of a future universally binding Agreement.**
- **The approved resolution includes a series of principles, rights and obligations that any privacy protection legal system must strive to achieve.**
- **One of the most relevant chapters of the document is the one that refers to proactive measures, whereby States are encouraged to promote a better compliance with the laws applicable on data protection matters, and the need to establish authorities to guarantee and supervise the rights of citizens.**
- **A group comprised of top executives from 10 large multinational companies has signed a declaration of support for the adopted proposal.**

The Joint Proposal on International Standards for the Protection of Privacy has been positively welcomed by Protection Authorities of 50 countries gathered within the framework of the 31st International Conference of Data Protection and Privacy, through the adoption of the "Madrid Resolution".

This document, approved at the closed session attended by the data protection authorities, constitutes the base for the development of an internationally binding tool that will contribute to a greater protection of the individual rights and freedoms at a global level.

The proposal, which has been elaborated during the past year **under the coordination of the Spanish Data Protection Agency (AEPD)**, has resulted in a document that tries to include the **multiple approaches possible in the protection of this right, integrating legislation from all five continents.**

According to Artemi Rallo, these standards are a proposal of international minimums, which include a set of principles and rights that will allow the achievement of a greater degree of international consensus and that will serve as reference for those countries that do not have a legal and institutional structure for data protection. Even though the approved resolution is not directly binding at an international level, Artemi Rallo has pointed out that this document **will have "immediate value" as a reference tool and, moreover, as a starting point** for those countries that still lack legislation on the matter, and for the corporate world and international companies. According to the director of the AEPD, the Madrid Resolution will, thus, become a **"soft law" tool, widely demanded** mainly by international companies, in order to respect the minimum privacy needs of citizens worldwide.

In this sense, the approved resolution entrusts upon the AEPD and the Authority in charge of hosting the 32nd International Privacy Conference the coordination of a contact group for the promotion and broadcasting of the joint proposal, as the basis for future work on the elaboration of a universally binding Agreement.

Content of the resolution: articulation and basic principles

The proposal on international standards includes a series of principles, rights and obligations that any privacy protection legal system must strive to achieve.

The text's purpose is to **define a series of principles and rights** that guarantee the effective protection of privacy at an international level, as well as to ease the **international flow of personal data**, essential in a globalized world. Among the basic principles that must govern the use of personal data, and which have inspired the document, we find those of **loyalty, legality, proportionality, quality, transparency and responsibility**; all of them are common to the different existing legal texts in the various regulations on the matter and enjoy wide consensus in their corresponding geographical, economic or legal application environments.

The Joint Proposal of International Privacy Standards includes, in addition, in its articulation, the need for the existence of supervisory authorities, and for the different states to cooperate and coordinate their activities. Furthermore, the set of rights such as **access, rectification, cancellation and objection** and the way in which they can be exercised. It also includes obligations such as **security of personal data**, through those measures that are considered appropriate in each case, or **confidentiality**, which affects the controller as well as anyone who participates in any of the stages in which personal data is managed.

In addition, it includes the requirements that must be met for the legal collection, preservation, use, revelation or erasure of personal data, such as, for example, the prior obtaining of the free, unequivocal and informed consent from the person providing the data.

The document also defines sensitive data as that data that affects the most intimate side of a person or whose misuse can originate an illegal or arbitrary discrimination, or may imply a severe risk for the said person.

On the other hand, the text recalls that, as a general rule, **international personal data transfers** may be performed when the State to which the data is transferred offers, at least, the level of protection foreseen in the document; or when whoever wants to transfer the data can guarantee that the addressee will offer the required level of protection, for example, through appropriate contractual clauses.

One of the most relevant chapters of the document is the one that refers to **pro-active measures**, which encourages States to **promote a better compliance with the applicable laws regarding data protection matters**, through instruments such as the establishment of procedures aimed at the prevention and detection of offences, or the periodic offering of awareness, education and training programs.

Declaration of corporate support and the Council of Europe

A group of 10 large companies (Oracle, Walt Disney, Accenture, Microsoft, Google, Intel, Procter & Gamble, General Electric, IBM and Hewlett-Packard) has signed a declaration in which they proudly welcome the initiative from the 31st International Conference for exploring frameworks to achieve an improved global coordination of the different privacy policies.

In this declaration, the signing companies encourage Data Protection and Privacy Authorities to continue insisting and collaborating in the development of transparent systems that will allow the taking on of responsibilities and that will provide accurate information to the citizen, granting him/her the power to decide.

Also, recently, the group on data protection from the Council of Europe, in a meeting celebrated just a few months ago, decided to support the initiative approved by the data protection authorities to adopt these international privacy standards and, with this, contribute to expand and promote a worldwide framework for the protection of privacy.

**Necessary and urgent standards**

The mission of approving this Joint Proposal was the **main priority of this 31st International Conference**, a result of the task entrusted and included within the unanimous resolution adopted by the prior Conference celebrated in Strasbourg. This resolution stated the urgent need to protect our privacy in a world without borders and to attain a joint proposal for the establishment of international standards on privacy and data protection.

In consonance with this mandate, the AEPD established a Working Group which has been working since then to elaborate this Joint Proposal, assuming that all these common principles and approaches contribute valuable elements to the defence and promotion of privacy and personal information, with the aim of extending those criteria and incorporating applicable solutions.

Appendix C

THE DATA PROTECTION PRINCIPLES

1. Personal data shall be processed fairly and lawfully and special conditions apply to the processing of sensitive personal data.
2. Personal data shall be obtained for one or more specified and lawful purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purposes for which they are processed.
4. Personal data shall be accurate and kept up to date.
5. Personal data shall not be kept for longer than necessary.
6. Personal data shall be processed in accordance with the rights of data subjects.
7. Technical and organisational measures shall be taken against unauthorised or unlawful processing and against accidental loss or damage to personal data.
8. Personal data shall not be transferred to a country or territory outside the Bailiwick unless the destination ensures an adequate level of protection for the data.

THE PRIVACY AND ELECTRONIC COMMUNICATIONS REGULATIONS

1. Telecommunications services must be secure and information processed within such services must be kept confidential.
2. Traffic data should not be retained for longer than necessary and the detail of itemised billing should be under subscriber control.
3. Facilities should be provided for the suppression of calling line and connected line information.
4. Information on the subscriber's location should not generally be processed without consent.
5. Subscribers may choose not to appear in directories.
6. Automated calling systems may not be used for direct marketing to subscribers who have opted out.
7. Unsolicited faxes may not be sent to private subscribers unless they have opted in or to business subscribers who have opted out.
8. Unsolicited marketing calls may not be made to subscribers who have opted out.
9. Unsolicited email marketing may not be sent to private subscribers and must never be sent where the identity of the sender has been disguised or concealed.
10. The Data Protection Commissioner may use enforcement powers to deal with any alleged contraventions of the Regulations.

Further information about compliance with the Data Protection (Bailiwick of Guernsey) Law 2001 and the Privacy and Electronic Communications Regulations in Guernsey, Alderney and Sark, can be obtained from:



Data Protection Commissioner's Office
P.O. Box 642
Frances House
Sir William Place
St. Peter Port
Guernsey
GY1 3JE

E-mail address: dataprotection@gov.gg
Internet: www.gov.gg/dataprotection
Telephone: +44 (0) 1481 742074
Fax: +44 (0) 1481 742077

Guernsey Inflation

Quarter 2 - 30th June 2010

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POLICY COUNCIL
THE STATES OF GUERNSEY

Introduction

The Guernsey RPIX and RPI, are measures of inflation used in Guernsey. They measure the change in the prices of goods and services bought for the purpose of consumption or use by households in Guernsey. The indices are published quarterly by the States of Guernsey Policy and Research Unit. The calculation of the RPIX and RPI are based on the price change of items within a 'shopping basket'. Whilst some prices rise over time, others will fall or fluctuate and the indices represent the average change in these prices. More detailed information on the calculation of these indices can be found at the end of this handout.

Headlines

- Guernsey's RPIX inflation rate ("core" inflation excluding mortgage interest payments) stood at 2.4% over the year ending June 2010, compared to 3.1% over the year ending March 2010 and 2.7% over the year ending June 2009.
- In the UK and Jersey the equivalent RPIX figures were 5.0% and 2.6% respectively for the end of June 2010 (see *Figure 1*).
- Eleven of the fourteen RPIX groups increased over the year ending June 2010.
- The fuel, light and power and motoring groups made the largest contributions to the annual increase, each contributing an increase of 0.6 percentage points to the annual change in RPIX.
- The clothing and footwear group made the largest negative contribution to the annual change.
- The 'all items' RPI inflation was 2.3% over the year ending June 2010 compared to 3.4% at the end of March 2010 and -1.3% at the end of June 2009.

Figure 1: Annual Rates of Inflation - RPIX

