



VIII  
2013

# BILLET D'ÉTAT

WEDNESDAY 29th MAY 2013

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# BILLET D'ÉTAT

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

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I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **29th MAY, 2013** at **9.30 a.m.**, to consider the items contained in this Billet d'État which have been submitted for debate.

R. J. COLLAS  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey

19<sup>th</sup> April 2013

**THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENTS WITH  
BRAZIL, ISLE OF MAN, JERSEY, MAURITIUS AND SINGAPORE) ORDINANCE,  
2013**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Guernsey) (Approval of Agreements with Brazil, Isle of Man, Jersey, Mauritius and Singapore) Ordinance, 2013”, and to direct that the same shall have effect as an Ordinance of the States.

**ADMINISTRATIVE DECISIONS (REVIEW) (GUERNSEY) LAW, 1986**

**NEW CHAIRMAN AND DEPUTY CHAIRMAN OF PANEL OF MEMBERS**

II.- To elect, in accordance with the provisions of section 4 (2) of the Administrative Decisions (Review) (Guernsey) Law, 1986:-

1. a Chairman of the Panel of Members, who shall be a sitting member of the States of Deliberation and who has held a seat in the States for a period of three years or more, to fill the vacancy which will arise on 1<sup>st</sup> June, 2013, by reason of the expiry of the term of office of Deputy R A Perrot, who is eligible for re-election.
2. a Deputy Chairman of that Panel, who shall be one of the Deans of the Douzaines but who shall not have a seat in the States, to fill the vacancy which will arise on 1<sup>st</sup> June, 2013, by reason of the expiry of the term of office of Douzenier R L Heaume, M.B.E, who is eligible for re-election.

**(NB The Deans of the Douzaines are Douzeniers R L Heaume, MBE, J E Foster, M A Ozanne, B J Hervé, N N Duquemin, P I Le Tocq, N M Dorey, G C Le Mesurier, F J Roper and J V Brache)**

## **LADIES' COLLEGE BOARD OF GOVERNORS**

### **NEW CHAIRMAN AND MEMBERS**

The States are asked:-

#### **III.- To elect**

1. a sitting member of the States as Chairman of the Ladies' College Board of Governors to fill the vacancy which will arise on 1<sup>st</sup> June, 2013, by reason of the expiration of the term of office of Deputy P L Gillson, who is eligible for re-election.
2. a member of that Board of Governors to fill the vacancy which will arise on 1<sup>st</sup> June, 2013, by reason of the expiration of the term of office of Dame Mary L Perkins, who is eligible for re-election.
3. as a member of that Board of Governors to fill the vacancy which will arise on 1<sup>st</sup> June, 2013, by reason of the expiration of the term of office of Mr Jack Honeybill, who is eligible for re-election, and who has been nominated in that behalf by the Education Department for re-election by the States.

#### **(NB The Education Department has provided the following profile of Mr Honeybill**

Mr Jack Honeybill spent 41 years working for the NatWest Bank, becoming a Senior Business Manager in Guernsey before retiring in 2002. From 2004 to 2012 he was elected a Deputy for St Peter Port North during which he served on a number of Departments including initially the Treasury and Resources Department, during his final term in office he was Deputy Minister of that Department. He has been the Chairman of the Friends of Les Bourgs for 20 years during which they have raised in excess of £4m. He is currently the Executive Officer of the Town Centre Partnership, a post he has held for 10 years. He was first elected to the Board of The Ladies' College in 2010.)

## **POLICY COUNCIL**

### **APPOINTMENT OF AN ORDINARY MEMBER OF THE GUERNSEY FINANCIAL SERVICES COMMISSION**

#### **Executive Summary**

This Report proposes the election of Advocate Simon William Francis Howitt as an ordinary member of the Guernsey Financial Services Commission.

#### **Report**

1. The Guernsey Financial Services Commission is currently comprised of Dr Cees Schrauwers, Ms Susie Farnon, The Lord Flight, Mr Alex Rodger, Mr Richard Hobbs and Mr Robert Moore. Pursuant to paragraph 1 of Schedule 1 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 the commission shall consist of a maximum of seven members. There is currently a casual vacancy on the Commission brought about by the resignation of Mr Paul Meader.
2. The Policy Council proposes the appointment of Advocate Simon Howitt as an ordinary member of the Guernsey Financial Services Commission to fulfil that casual vacancy for the period from 3 June 2013 until 1 February 2015. Advocate Howitt has 24 years experience as an Advocate and is currently a partner at Babbé. He is member of the Council of the Chamber of Commerce and served as its President between 2001 and 2003. Advocate Howitt has served on a number of States Committee's including being a non-states member of the Legislation Select Committee since 2004, the share transfer duty working party and the Inheritance Law Review Committee. A summary of Advocate Howitt's curriculum vitae is attached for reference.

#### **Recommendation**

The Policy Council recommends the States:

- (a) elect Advocate Simon William Francis Howitt as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 3<sup>rd</sup> June 2013.

Peter A Harwood  
Chief Minister

11<sup>th</sup> March 2013

J P Le Tocq  
Deputy Chief Minister

Deputy R Domaille	Deputy M H Dorey	Deputy D B Jones	Deputy A H Langlois
Deputy P A Luxon	Deputy M G O'Hara	Deputy R W Sillars	Deputy K A Stewart
Deputy G A St Pier			

**APPENDIX****ADVOCATE SIMON HOWITT**

**Date of Birth:** 27 February 1965

**Education:** Elizabeth College, Leicester Polytechnic (now De Montfort University), Inns of Court School of Law, University of Caen

**Employment**

1988 – 2000: Le Pelley & Tostevin, Employed Advocate and Partner

2000- date: Babbé, Partner

**(NB The Treasury Resources Department has no comments on the Report.)**

The States are asked to decide:-

IV.- Whether, after consideration of the Report dated 11<sup>th</sup> March 2013, of the Policy Council, they are of the opinion to elect Advocate Simon William Francis Howitt as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 3<sup>rd</sup> June 2013.

## **TREASURY AND RESOURCES DEPARTMENT**

### **APPOINTMENT OF NON-EXECUTIVE DIRECTORS GUERNSEY ELECTRICITY LIMITED**

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

19<sup>th</sup> March 2013

Dear Sir

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

- 1.1 The purpose of this Report is to seek the States' approval for the appointment of two new non-executive directors at Guernsey Electricity.

#### **2. Background**

- 2.1 Under the terms of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, non-executive directors of the States Trading Companies are appointed by the States upon the recommendation of the Treasury and Resources Department.
- 2.2 In anticipation of the retirement of two existing non-executive directors, Guernsey Electricity has proposed to the Department the appointment of Mr Robert Dutnall and Mrs Christine Holmes as non-executive directors of the Company. The Department supports these proposed appointments, which the Company is recommending should be effective from the date of its 2013 AGM, which is presently scheduled to take place on 6<sup>th</sup> August, 2013.
- 2.3 Mr Dutnall, a qualified Chartered Accountant with substantial business and commercial experience, moved to Guernsey in 2007. His senior management career has involved working for a number of different organisations. Between 1990 and 1996, he worked for GEI International PLC, a diversified engineering group, first as the Divisional Finance Director and then as Managing Director of one of the Group's companies. In 1997, he moved to Siebe PLC (now Invensys PLC), where he started as a Divisional Finance Director before taking on the role of Vice President (Finance) and then Acting Divisional President of the Industrial Equipment Division. He subsequently worked for three years as the Deputy Chief Executive Officer and Chief Financial Officer of the CompAir Group, a global compressor manufacturer, before moving in 2005 to Sportingbet PLC, a FTSE 250 internet gaming company. In 2008, he took on the role of Managing Director (Europe) for Sportingbet, subsequently leaving the company in 2012 to take on a new part-time role as an Executive Director of betway.com, a privately owned internet gaming group.

- 2.4 Mrs Holmes, who is Jersey based, has a post-graduate diploma in marketing and has had an extensive career at a senior level in marketing and public relations. Having previously held a number of marketing posts at management level within the UK construction industry, in 1997, she was appointed as the Corporate Marketing Manager for Jersey Electricity. In 2004, she moved to the Dandara Group Ltd as Group Head of Marketing, before leaving to establish her own marketing and public relations company, Profile Project Management Ltd, in 2007. She has worked as a committee member of the Jersey branch of the Institute of Marketing and served a two-year term as its Chairman between 2002 and 2004.
- 1.5 The proposals set out in this States Report will not have any impact on the resources of the States. The Department considers that it has complied with the six principles of good governance in the preparation of this States Report.

## **2. Recommendations**

- 3.1 In accordance with section 3(1) of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, the Treasury and Resources Department recommends the States to:
- (a) Appoint Mr Robert James Dutnall as a non-executive director of Guernsey Electricity Ltd with effect from 6<sup>th</sup> August, 2013;
  - (b) Appoint Mrs Christine Marie Holmes as non-executive director of Guernsey Electricity Ltd with effect from 6<sup>th</sup> August, 2013.

Yours faithfully

G A St Pier  
Minister

J Kuttelwascher (Deputy Minister)

A Spruce                      G M Collins                      R Perrot

**(NB The Policy Council has no comments on the proposals.)**

The States are asked to decide:-

V.- Whether, after consideration of the Report dated 19<sup>th</sup> March, 2013, of the Treasury Department, they are of the opinion:

1. To appoint Mr Robert James Dutnall as a non-executive director of Guernsey Electricity Ltd with effect from 6<sup>th</sup> August, 2013.
2. To appoint Mrs Christine Marie Holmes as non-executive director of Guernsey Electricity Ltd with effect from 6<sup>th</sup> August, 2013.



**TREASURY & RESOURCES DEPARTMENT**

**DOUBLE TAXATION ARRANGEMENTS**  
**WITH THE GOVERNMENTS OF THE ISLE OF MAN AND JERSEY**

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

26<sup>th</sup> February 2013

Dear Sir

**1. Executive Summary**

This Report proposes that the States declare, by Resolution, that Double Taxation Arrangements (“DTAs”) entered into with the Governments of the Isle of Man and Jersey, on 24 January 2013, should have effect, with the consequence that the Arrangements shall also have effect in relation to income tax, notwithstanding anything contained in the Income Tax (Guernsey) Law, 1975, as amended (“the Income Tax Law”).

**2. Report**

- 2.1. The principal purpose of a DTA is for two governments to agree procedures for the prevention of double taxation – that is, taxation under the laws of both territories in respect of the same income.
- 2.2. Prior to 2008, Guernsey had only two DTAs – one with the United Kingdom (which came into force in 1952) and one with Jersey (which came into force in 1955). Since 2008, several DTAs, albeit restricted in nature, have been signed with other countries, such as Australia, Ireland and New Zealand. In addition, a comprehensive DTA was signed with Malta in March 2012.
- 2.3. Since 2001, Guernsey has been negotiating with a number of countries in relation to Tax Information Exchange Agreements (“TIEAs”). Part of the negotiation process is to discuss, with the country concerned, ways of preventing certain types of double taxation and related issues.
- 2.4. During the course of discussions with the Isle of Man and Jersey, the preference was expressed for a full DTA rather than a TIEA, albeit one that contained an exchange of information article to the equivalent standard of Article 26 of the OECD’s Model Tax Convention on Income and on Capital. A DTA that contains

such an article is recognised as meeting international standards on exchange of information for tax purposes and is thus equivalent to a TIEA. The DTA with Jersey would replace the existing Agreement dating from 1955, which did not meet these standards.

- 2.5. There are thousands of DTAs in existence, on a global basis. It is almost inevitable, therefore, that some countries and organisations would group together in order to try and agree a common template for use in negotiations. The two most commonly used templates are the OECD Model Tax Convention on Income and on Capital, and the United Nations Model Double Taxation Convention Between Developed and Developing Countries.
- 2.6. The main purpose of the OECD Model is to provide a means of settling, on a uniform basis, the most common problems that arise in the field of international juridical double taxation. The Council of the OECD recommends OECD Member Countries, when concluding or revising bilateral conventions, to conform to the Model (as interpreted by the comprehensive commentaries attached to the Model) whilst having regard to the (significant number of) reservations which OECD Members have lodged in respect of the Model (such reservations reflecting OECD Member Countries' specific preferences, taking into account their domestic tax provisions, their stance on addressing the issue of double taxation, in particular situations, etc).

The influence of the OECD Model Tax Convention has extended far beyond OECD Member Countries. As a consequence, a number of non-OECD jurisdictions have set out their position in relation to particular parts of the OECD Model (so that, in effect, the OECD Model reflects the reservations and observations of both OECD Members and some other jurisdictions which wish for their positions on the Model to be, officially, recorded).

- 2.7. The United Nations Model Double Taxation Convention, whilst similar to the OECD Model, in many respects, addresses issues of particular interest when a developed country negotiates an agreement with a developing country, where the desirability of promoting inflows of foreign investment increased international trade and the transfer of technology, have to be balanced against the protection of taxpayers against double taxation and the protection of the tax bases of the bilateral treaty partners.
- 2.8. Broadly, the OECD Model Convention, which was, essentially, formulated for treaties between developed economies, tends towards the general concept of taxation according to the place of residence of a taxpayer, whereas the UN Model gives more weight to the principle of taxation on the basis of source of the income concerned.
- 2.9. It would be expected, therefore, that if Guernsey was to commence discussions in relation to a DTA with an OECD Member State, that State's Model DTA would bear significant similarities to the OECD Model Tax Convention (albeit reflecting

its reservations and observations on the OECD Model). By contrast, if Guernsey was to commence negotiations with a non-OECD Member, and depending on that particular jurisdiction's preference that country's Model may follow:

- the OECD Model Convention,
- the UN Model Convention,
- a mixture of the OECD and UN Model Conventions, or
- possibly some other Model. (For example, there is a COMESA Double Taxation Model, agreed early in 2012, by the Common Market for Eastern and Southern Africa. There are a number of other such regional Models in existence.)

2.10. The first negotiations with the Isle of Man and Jersey, in relation to a DTA, took place in January 2012. By that time, Guernsey, Jersey and the Isle of Man had negotiated DTAs with Malta. As a consequence, the decision was taken to base the discussions with the Isle of Man and Jersey on the texts of the DTAs, already negotiated with Malta (and those Agreements, in turn, followed relatively closely the OECD Model Convention – notwithstanding that Malta is neither an OECD Member nor a territory that has chosen to overtly declare its position on the OECD Model – see 2.6. above).

2.11. On 24 January 2013, Guernsey signed an Agreement with the Isle of Man entitled “Agreement between the States of Guernsey and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income” and an Agreement with Jersey entitled “Agreement between the States of Guernsey and the Government of Jersey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income”. A copy of each Agreement is appended to this Report.

2.12. Particular points of note, in relation to the Agreements, are:

- (i) Article 7 (“Business Profits”) follows the text concluded in the Agreement with Malta. In July 2010 (which was after Malta had negotiated Agreements with the Isle of Man and Jersey, but before negotiations with Guernsey had commenced) Article 7 of the OECD Model Tax Convention was updated. At the time of the commencement of the negotiations with the Isle of Man and Jersey those islands expressed a wish to follow the Malta DTA text (albeit that Guernsey's preference is now to negotiate on the basis of the July 2010 revised OECD Model text). It is not considered that there is any significant fiscal implication arising from this, however.
- (ii) Articles 10 (“Dividends”), 11 (“Interest”) and 12 (“Royalties”) prescribe that the general principle is that those sources of income are taxed in the place of residence of the recipient. This accords with Guernsey's domestic tax regime under which dividends, interest and royalties, paid to a non-resident of Guernsey, do not suffer deduction of Guernsey tax.

- (iii) Article 17 (“Pensions”) prescribes, in effect, that such sources of income may be taxable in the Party in which the pension arises (source basis) as well as in the territory in which the pensioner resides (although, in such a case, double taxation may be avoided or reduced under Article 21, such as by the residence territory giving a credit for tax paid in the source territory). There is a proviso, however, that if the service, to which the pension relates, was performed wholly outside of the source territory, then the right to tax lies solely with the place of residence. This proviso preserves the ability of an approved Guernsey occupational pension scheme, to be able to obtain QROPS status under UK legislation, notwithstanding that it is also open to Isle of Man or Jersey residents, and those non-resident members are taxed on a different basis to Guernsey resident members. This is because UK QROPS legislation permits a differing basis of taxation for non-residents where this arises under a DTA, but not under domestic tax legislation. As the proviso reflects what, historically, had been practice in Guernsey, and as all three islands have agreed for the same basis of taxation in respect of pensions, it is not considered that this will have a material effect on Guernsey’s revenues.

2.13. Section 172(1) of the Income Tax Law provides:

“If the States by Resolution declare that arrangements specified in the Resolution have been made with the government of any other territory with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any enactment.”

Section 172(2) provides that:

“Any Resolution made under this section may be revoked by a subsequent Resolution.”

Section 172(2) is relevant for the purposes of ensuring that the provisions of the Agreement with Jersey, signed on 24 January 2013, replace those in the DTA signed with Jersey in 1955.

### **3. Principles of Good Governance**

In preparing this Report, the Department has been mindful of the States Resolution to adopt the six core principles of good governance defined by the UK Independent Commission on Good Governance in Public Services (Billet IV of 2011).

#### **4. Resource Implications**

- 4.1. Whilst the Agreements with the Governments of the Isle of Man and Jersey set out measures for the avoidance of double taxation, as those obligations extend to both parties to the Agreement, it is not anticipated that the Agreement will give rise to any overall significant loss of, or increase to, the revenues of the States.
- 4.2. Whilst the provisions of the Agreement relating to the prevention of fiscal evasion do place obligations on the Parties to obtain and exchange information, in accordance with Article 24 of the Agreement, the resource implication for Guernsey in complying with those obligations is not expected to be significant and can be managed within the existing resources available to the Director of Income Tax.

#### **5. Recommendation**

The Treasury & Resources Department recommends that the States:

1. should ratify the Agreements made with the Governments of the Isle of Man and Jersey, as appended to this Report, so that they have effect in accordance with section 172(1) of the Income Tax Law; and,
2. in relation to the Agreement with the Government of Jersey, signed in 1955, revoke its Resolution made on 22 June 1955, under section 23(1) of the Income Tax (Guernsey) Law, 1950, as amended, in accordance with section 172(2) of the Income Tax Law.

Yours faithfully

G A St Pier  
Minister

J Kuttelwascher (Deputy Minister)  
G Collins  
R Perrot  
T Spruce

**AGREEMENT BETWEEN  
THE STATES OF GUERNSEY AND  
THE GOVERNMENT OF JERSEY  
FOR THE AVOIDANCE OF DOUBLE TAXATION AND  
THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME**

**The States of Guernsey and the Government of Jersey, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:**

**ARTICLE 1  
Persons Covered**

This Agreement shall apply to persons who are residents of one or both of the Parties.

**ARTICLE 2  
Taxes Covered**

1. This Agreement shall apply to taxes on income imposed on behalf of a Party irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
  - a) in the case of Jersey:  
the income tax,  
(hereinafter referred to as "Jersey tax");
  - b) in the case of Guernsey:  
income tax,  
(hereinafter referred to as "Guernsey tax").
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their taxation laws.

### **ARTICLE 3**

#### **General Definitions**

1. For the purposes of this Agreement, unless the context otherwise requires:

- a) the term "Jersey" means the Bailiwick of Jersey and, when used in a geographical sense, means the island of Jersey, including its territorial sea, in accordance with international law;
- b) the term "Guernsey", means the States of Guernsey and, when used in a geographical sense, means the islands of Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law, save that any reference to the law of Guernsey is to the law of the island of Guernsey as it applies there and in the islands of Alderney and Herm;
- c) the term "business" includes the performance of professional services and of other activities of an independent character;
- d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) the term "competent authority" means:
  - i) in the case of Jersey, the Minister for Treasury and Resources or his authorised representative;
  - ii) in the case of Guernsey, the Director of Income Tax or his delegate;
- f) the term "criminal laws" means all criminal laws designated as such under domestic law, irrespective of whether such are contained in the tax laws, the criminal code or other statutes;
- g) the term "criminal tax matters" means tax matters involving intentional conduct whether before or after the entry into force of this Agreement which is liable to prosecution under the criminal laws of the requesting Party;
- h) the term "enterprise" applies to the carrying on of any business;
- i) the terms "enterprise of a Party" and "enterprise of the other Party" mean respectively an enterprise carried on by a resident of a Party and an enterprise carried on by a resident of the other Party;

- j) the term "entity", in relation to a Party, means any legal person, partnership or association deriving its status as such from the laws in force in a Party;
- k) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Party, except when the ship or aircraft is operated solely between places in the other Party;
- l) the terms "a Party" and "the other Party" mean Jersey or Guernsey as the context requires; the term "Parties" means Jersey and Guernsey;
- m) the term "person" includes an individual, a company and any other body of persons.

2. As regards the application of the Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

#### **ARTICLE 4**

##### **Resident**

1. For the purposes of this Agreement, the term "resident of a Party" means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that Party and any pension fund or pension scheme recognised by that Party. This term, however, does not include any person who is liable to tax in that Party in respect only of income from sources in that Party.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Parties, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
- b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to



him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

- c) if he has an habitual abode in both Parties or in neither of them, the competent authorities shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

## **ARTICLE 5**

### **Permanent Establishment**

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop; and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 6 months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person, other than an agent of an independent status to whom paragraph 6 applies, is acting on behalf of an enterprise and has, and habitually exercises, in a Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Party merely because it carries on business in that Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Party controls or is controlled by a company which is a resident of the other Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## **ARTICLE 6**

### **Income from Immovable Property**

1. Income derived by a resident of a Party from immovable property (including income from agriculture or forestry) situated in the other Party may be taxed in that other Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

## **ARTICLE 7**

### **Business Profits**

1. The profits of an enterprise of a Party shall be taxable only in that Party unless the enterprise carries on business in the other Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Party but only so much of them as are attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Party carries on business in the other Party through a permanent establishment situated therein, there shall in each Party be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Party in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same

method year by year unless there is good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

## **ARTICLE 8**

### **Shipping and Air Transport**

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Party in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Party in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Party of which the operator of the ship is a resident.

3. For the purposes of this Article, profits derived from the operation in international traffic of ships and aircraft include profits:

- a) derived from the rental on a bareboat basis of ships and aircraft if operated in international traffic; and
- b) derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise,

where such rental profits or profits from such use, maintenance or rental, as the case may be, are incidental to the profits described in paragraph 1.

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

## **ARTICLE 9**

### **Associated Enterprises**

1. Where:

- a) an enterprise of a Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party; or

- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Parties shall if necessary consult each other.

## **ARTICLE 10**

### **Dividends**

1. Dividends paid by a company which is a resident of a Party to a resident of the other Party and which are beneficially owned by that resident shall be taxable only in that other Party.

2. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Party of which the company making the distribution is a resident.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Party, carries on business in the other Party of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where a company which is a resident of a Party derives profits or income from the other Party, that other Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment

situated in that other Party, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Party.

## **ARTICLE 11**

### **Interest**

1. Interest arising in a Party and which is beneficially owned by a resident of the other Party shall be taxable only in that other Party.

2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Party, carries on business in the other Party in which the interest arises, through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Interest shall be deemed to arise in a Party when the payer is a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a Party or not, has in a Party a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Party in which the permanent establishment is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

## **ARTICLE 12**

### **Royalties**

1. Royalties arising in a Party and beneficially owned by a resident of the other Party shall be taxable only in that other Party.
2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Party, carries on business in the other Party in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Royalties shall be deemed to arise in a Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Party or not, has in a Party a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Party in which the permanent establishment is situated.
5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

## **ARTICLE 13**

### **Capital Gains**

1. Gains derived by a resident of a Party from the alienation of immovable property referred to in Article 6 and situated in the other Party may be taxed in that other Party.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Party has in the other Party including such gains from the alienation of such a

permanent establishment (alone or with the whole enterprise), may be taxed in that other Party.

3. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Party in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Party of which the alienator is a resident.

## **ARTICLE 14**

### **Income from Employment**

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:

- a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and
- c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Party in which the place of effective management of the enterprise is situated.

## **ARTICLE 15**

### **Directors' Fees**

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors of a company which is a resident of the other Party may be taxed in that other Party.



## **ARTICLE 16**

### **Artistes and Sportsmen**

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Party, may be taxed in that other Party.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Party in which the activities of the entertainer or sportsman are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Party by an entertainer or a sportsman if the visit to that Party is wholly or mainly supported by public funds of one or both of the Parties or local authorities thereof. In such case, the income shall be taxable only in the Party of which the entertainer or a sportsman is a resident.

## **ARTICLE 17**

### **Pensions**

1. Pensions and other similar remuneration (including lump sum payments and social security pensions) arising in a Party and paid to a resident of the other Party may be taxed in the first-mentioned Party.
2. Notwithstanding the provisions of paragraph 1, if the services in respect of which pensions and other similar remuneration (including lump sum payments) paid in consideration of past employment were performed wholly outside of the Party in which the payments arise by a resident of the other Party, and are paid to that resident, the payment shall be taxable only in that other Party.

## **ARTICLE 18**

### **Government Service**

1. Salaries, wages and other similar remuneration paid by a Party to an individual in respect of services rendered to that Party shall be taxable only in that Party. However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who did not become a resident of that Party solely for the purpose of rendering the services.

2. The provisions of Articles 14, 15 and 16 shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a trade or business carried on by a Party.

## **ARTICLE 19**

### **Students**

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

## **ARTICLE 20**

### **Other Income**

1. Items of income of a resident of a Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Party, carries on business in the other Party through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

## **ARTICLE 21**

### **Methods for Elimination of Double Taxation**

1. In the case of Jersey, double taxation shall be eliminated as follows:

Subject to the provisions of the laws of Jersey regarding the allowance of a credit against Jersey tax in respect of foreign tax, where, in accordance with the provisions of this Agreement;

- a) When imposing tax on its residents Jersey may include in the basis upon which such taxes are imposed the items of income, which, according to the provisions of this Agreement, may be taxed in Guernsey.
- b) Where a resident of Jersey derives income which, in accordance with the provisions of this Agreement, may be taxed in

Guernsey, Jersey shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Guernsey. Such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Guernsey.

2. In the case of Guernsey, double taxation shall be avoided as follows:

Subject to the provisions of the laws of Guernsey regarding the allowance as a credit against Guernsey tax of tax payable in a territory outside Guernsey (which shall not affect the general principle hereof):

- a) subject to the provisions of sub-paragraph c), where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement, may be taxed in Jersey, Guernsey shall allow as a deduction from the tax payable in respect of that income, an amount equal to the income tax paid in Jersey;
- b) such deduction shall not, however, exceed that part of the income tax, as computed before deduction is given, which is attributable to the income which may be taxed in Jersey;
- c) where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement shall be taxable only in Jersey, Guernsey may include this income in calculating the amount of tax on the remaining income of such resident.

## **ARTICLE 22**

### **Non-discrimination**

1. Entities of a Party shall not be subjected in the other Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which entities of that other Party in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Parties.

2. The taxation on a permanent establishment which an enterprise of a Party has in the other Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Party to grant to residents of the other Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11, or paragraph 5 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Party to a resident of the other Party shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Party.

4. Enterprises of a Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Party, shall not be subjected in the first-mentioned Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

### **ARTICLE 23**

#### **Mutual Agreement Procedure**

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident, or in a case where paragraph 1 of Article 22 applies, to that of the Party of which it is an entity. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. Where:

- a) under paragraph 1, a person has presented a case to the competent authority of a Party on the basis that the actions of one or both of the Parties have resulted for that person in taxation not in accordance with the provisions of this Agreement; and
- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Party,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Party. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Parties and shall be implemented notwithstanding any time limits in the domestic laws of these Parties. The competent authorities of the Parties shall by mutual agreement settle the mode of application of this paragraph.

## **ARTICLE 24**

### **Exchange of Information**

1. The competent authorities of the Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Parties insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Party shall be treated as confidential in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Party the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Party;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Party;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Party in accordance with this Article, the other Party shall use its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Party to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

## **ARTICLE 25**

### **Members of Diplomatic Missions and Consular Posts**

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

## **ARTICLE 26**

### **Entry into Force**

1. Each Party shall notify the other Party in writing of the completion of the procedures required by its laws for the bringing into force of this Agreement.

2. This Agreement shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1.

3. Upon entry into force the provisions of this Agreement shall have effect:

- a) with respect to exchange of information under Article 24 in relation to criminal tax matters, on that date;
- b) with respect to taxes due at source on income credited or payable on or after January 1 of the year next following the year in which the Agreement entered into force; and
- c) with respect to taxes other than taxes due at source on income of taxable periods beginning on or after January 1 of the year next following the year in which the Agreement entered into force.

## **ARTICLE 27**

### **Termination**

This Agreement shall remain in force until terminated by a Party. Either Party may terminate the Agreement by giving to the other Party written notice of termination not later than the 30th June of any calendar year following that in which the Agreement entered into force. In the event of termination before July 1 of such year, the Agreement shall cease to have effect:

- a) with respect to taxes due at source on income credited or payable from January 1 of the year next following the year in which the notice of termination is given; and
- b) with respect to taxes other than taxes due at source on income of taxable periods beginning on or after January 1 of the year next following the year in which the notice of termination is given.

**IN WITNESS WHEREOF** the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

**DONE** in duplicate at London, United Kingdom this twenty fourth day of January, 2013 in the English language.

**For the States of Guernsey**

**For the Government of Jersey**

## PROTOCOL

At the moment of signing the Agreement between the States of Guernsey and the Government of Jersey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income ("the Agreement"), the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement.

It is understood that:

1. For the purposes of paragraph 3 of Article 6, the term "use in any other form of immovable property" shall include any income or gains derived from the development of land and property in which the person receiving that income or gain has an interest.

2. The competent authorities shall take into consideration the commentaries pertaining to the OECD Model Convention on Income and on Capital, as revised from time to time, ("OECD Model Convention") when interpreting provisions of this Agreement that are identical to the provisions in that OECD Model Convention. The understanding in the preceding sentence will not apply with respect to the following:

- a) any contrary interpretations in this Protocol;
- b) any contrary interpretation agreed on by the competent authorities;
- c) any revisions to the commentaries since the version dated July 2010 unless agreed by the competent authorities.

**IN WITNESS WHEREOF** the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

**DONE** in duplicate at London, United Kingdom this twenty fourth day of January, 2013 in the English language.

**For the States of Guernsey**

**For the Government of Jersey**



**AGREEMENT**

**BETWEEN**

**THE STATES OF GUERNSEY**

**AND**

**THE GOVERNMENT OF THE ISLE OF MAN**

**FOR THE AVOIDANCE OF DOUBLE TAXATION**

**AND**

**THE PREVENTION OF FISCAL EVASION**

**WITH RESPECT TO TAXES ON INCOME**

The States of Guernsey and the Government of the Isle of Man, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

**ARTICLE 1**

**PERSONS COVERED**

This Agreement shall apply to persons who are residents of one or both of the Parties.

## **ARTICLE 2**

### **TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of a Party irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
  - a) in the case of the Isle of Man:  
the Income Tax,  
(hereinafter referred to as "Manx tax");
  - b) in the case of Guernsey:  
income tax  
(hereinafter referred to as "Guernsey tax").
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their taxation laws.

**ARTICLE 3**  
**GENERAL DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:

- a) the term "Isle of Man" means the island of the Isle of Man, including its territorial sea, in accordance with international law;
- b) the term "Guernsey", means the States of Guernsey and, when used in a geographical sense, means the islands of Guernsey, Alderney and Herm, and the territorial sea adjacent to those islands, in accordance with international law, save that any reference to the law of Guernsey is to the law of the island of Guernsey as it applies there and in the islands of Alderney and Herm;
- c) the term "business" includes the performance of professional services and of other activities of an independent character;
- d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) the term "competent authority" means:
  - i) in the case of the Isle of Man, the Assessor of Income Tax or his delegate, and;
  - ii) in the case of Guernsey, the Director of Income Tax or his delegate;

- f) the term "criminal laws" means all criminal laws designated as such under domestic law, irrespective of whether such are contained in the tax laws, the criminal code or other statutes;
- g) the term "criminal tax matters" means tax matters involving intentional conduct whether before or after the entry into force of this Agreement which is liable to prosecution under the criminal laws of the requesting Party;
- h) the term "enterprise" applies to the carrying on of any business;
- i) the terms "enterprise of a Party" and "enterprise of the other Party" mean respectively an enterprise carried on by a resident of a Party and an enterprise carried on by a resident of the other Party;
- j) the term "entity", in relation to a Party, means any legal person, partnership or association deriving its status as such from the laws in force in a Party;
- k) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Party, except when the ship or aircraft is operated solely between places in the other Party;
- l) the terms "a Party" and "the other Party" mean the Isle of Man or Guernsey as the context requires; the term "Parties" means the Isle of Man and Guernsey;
- m) the term "person" includes an individual, a company and any other body of persons.

2. As regards the application of the Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

**ARTICLE 4****RESIDENT**

1. For the purposes of this Agreement, the term "resident of a Party" means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that Party and any local authority thereof and any pension fund or pension scheme recognised by that Party. This term, however, does not include any person who is liable to tax in that Party in respect only of income from sources in that Party.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Parties, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
- b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

- c) if he has an habitual abode in both Parties or in neither of them, the competent authorities shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.



**ARTICLE 5****PERMANENT ESTABLISHMENT**

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
  - a) a place of management;
  - b) a branch;
  - c) an office;
  - d) a factory;
  - e) a workshop; and
  - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 6 months.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
  - a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person, other than an agent of an independent status to whom paragraph 6 applies, is acting on behalf of an enterprise and has, and habitually exercises, in a Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party in respect of any activities which that person undertakes for the enterprise,

unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Party merely because it carries on business in that Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Party controls or is controlled by a company which is a resident of the other Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

**ARTICLE 6****INCOME FROM IMMOVABLE PROPERTY**

1. Income derived by a resident of a Party from immovable property (including income from agriculture or forestry) situated in the other Party may be taxed in that other Party.
2. The term "immovable property" shall have the meaning which it has under the law of the Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

**ARTICLE 7**  
**BUSINESS PROFITS**

1. The profits of an enterprise of a Party shall be taxable only in that Party unless the enterprise carries on business in the other Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Party but only so much of them as are attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Party carries on business in the other Party through a permanent establishment situated therein, there shall in each Party be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Party in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

**ARTICLE 8**  
**SHIPPING AND AIR TRANSPORT**

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Party in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Party in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Party of which the operator of the ship is a resident.

3. For the purposes of this Article, profits derived from the operation in international traffic of ships and aircraft include profits:

a) derived from the rental on a bareboat basis of ships and aircraft if operated in international traffic; and

b) derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise,

where such rental profits or profits from such use, maintenance or rental, as the case may be, are incidental to the profits described in paragraph 1.

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

**ARTICLE 9**  
**ASSOCIATED ENTERPRISES**

1. Where:

- a) an enterprise of a Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party; or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party shall make an appropriate adjustment to the amount of the tax charged therein on



those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Parties shall if necessary consult each other.

**ARTICLE 10****DIVIDENDS**

1. Dividends paid by a company which is a resident of a Party to a resident of the other Party and which are beneficially owned by that resident shall be taxable only in that other Party.

2. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Party of which the company making the distribution is a resident.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Party, carries on business in the other Party of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where a company which is a resident of a Party derives profits or income from the other Party, that other Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the

dividends are paid is effectively connected with a permanent establishment situated in that other Party, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Party.

**ARTICLE 11****INTEREST**

1. Interest arising in a Party and which is beneficially owned by a resident of the other Party shall be taxable only in that other Party.

2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Party, carries on business in the other Party in which the interest arises, through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Interest shall be deemed to arise in a Party when the payer is a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a Party or not, has in a Party a permanent

establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Party in which the permanent establishment is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

**ARTICLE 12****ROYALTIES**

1. Royalties arising in a Party and beneficially owned by a resident of the other Party shall be taxable only in that other Party.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Party, carries on business in the other Party in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Royalties shall be deemed to arise in a Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Party or not, has in a Party a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then

such royalties shall be deemed to arise in the Party in which the permanent establishment is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

**ARTICLE 13**  
**CAPITAL GAINS**

1. Gains derived by a resident of a Party from the alienation of immovable property referred to in Article 6 and situated in the other Party may be taxed in that other Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Party has in the other Party including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Party.

3. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Party in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Party of which the alienator is a resident.



**ARTICLE 14****INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:

- a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and
- c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Party in which the place of effective management of the enterprise is situated.

**ARTICLE 15****DIRECTORS' FEES**

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors of a company which is a resident of the other Party may be taxed in that other Party.

**ARTICLE 16****ARTISTES AND SPORTSMEN**

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Party, may be taxed in that other Party.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Party in which the activities of the entertainer or sportsman are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Party by an entertainer or a sportsman if the visit to that Party is wholly or mainly supported by public funds of one or both of the Parties or local authorities thereof. In such case, the income shall be taxable only in the Party of which the entertainer or a sportsman is a resident.

**ARTICLE 17****PENSIONS**

1. Pensions and other similar remuneration (including lump sum payments and social security pensions) arising in a Party and paid to a resident of the other Party may be taxed in the first-mentioned Party.

2. Notwithstanding the provisions of paragraph 1, if the services in respect of which pensions and other similar remuneration (including lump sum payments) paid in consideration of past employment were performed wholly outside of the Party in which the payments arise by a resident of the other Party, and are paid to that resident, the payment shall be taxable only in that other Party.

**ARTICLE 18**  
**GOVERNMENT SERVICE**

1. Salaries, wages and other similar remuneration paid by a Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party. However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who did not become a resident of that Party solely for the purpose of rendering the services.

2. The provisions of Articles 14, 15 and 16 shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a trade or business carried on by a Party or a local authority thereof.

**ARTICLE 19****STUDENTS**

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

**ARTICLE 20****OTHER INCOME**

1. Items of income of a resident of a Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Party, carries on business in the other Party through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

**ARTICLE 21****METHODS FOR ELIMINATION OF DOUBLE TAXATION**

1. In the case of the Isle of Man, double taxation shall be avoided as follows:

- a) When imposing tax on its residents the Isle of Man may include in the basis upon which such taxes are imposed the items of income, which, according to the provisions of this Agreement, may be taxed in Guernsey.
- b) Where a resident of the Isle of Man derives income which, in accordance with the provisions of this Agreement, may be taxed in Guernsey the Isle of Man shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Guernsey. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Guernsey.
- c) Where in accordance with any provision of this Agreement income derived by a resident of the Isle of Man is exempt from tax in the Isle of Man, the Isle of Man may nevertheless in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. In the case of Guernsey, double taxation shall be avoided as follows:



Subject to the provisions of the laws of Guernsey regarding the allowance as a credit against Guernsey tax of tax payable in a territory outside Guernsey (which shall not affect the general principle hereof):

- a) subject to the provisions of sub-paragraph c), where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement, may be taxed in the Isle of Man, Guernsey shall allow as a deduction from the tax payable in respect of that income, an amount equal to the income tax paid in the Isle of Man;
- b) such deduction shall not, however, exceed that part of the income tax, as computed before deduction is given, which is attributable to the income which may be taxed in the Isle of Man;
- c) where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement shall be taxable only in the Isle of Man, Guernsey may include this income in calculating the amount of tax on the remaining income of such resident.

**ARTICLE 22**  
**NON-DISCRIMINATION**

1. Entities of a Party shall not be subjected in the other Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which entities of that other Party in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Parties.

2. The taxation on a permanent establishment which an enterprise of a Party has in the other Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Party to grant to residents of the other Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11, or paragraph 5 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Party to a resident of the other Party shall, for the purpose of determining the taxable profits of such

enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Party.

4. Enterprises of a Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Party, shall not be subjected in the first-mentioned Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

**ARTICLE 23**  
**MUTUAL AGREEMENT PROCEDURE**

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident, or in a case where paragraph 1 of Article 22 applies, to that of the Party of which it is an entity. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. Where:

- a) under paragraph 1, a person has presented a case to the competent authority of a Party on the basis that the actions of one or both of the Parties have resulted for that person in taxation not in accordance with the provisions of this Agreement; and
- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Party,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Party. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Parties and shall be implemented notwithstanding any time limits in the

domestic laws of these Parties. The competent authorities of the Parties shall by mutual agreement settle the mode of application of this paragraph.

**ARTICLE 24****EXCHANGE OF INFORMATION**

1. The competent authorities of the Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Parties insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Party shall be treated as confidential in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Party the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Party;

- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Party;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Party in accordance with this Article, the other Party shall use its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Party to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.



**ARTICLE 25****MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

**ARTICLE 26**  
**ENTRY INTO FORCE**

1. Each Party shall notify the other Party in writing of the completion of the procedures required by its laws for the bringing into force of this Agreement.
2. This Agreement shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1.
3. Upon entry into force the provisions of this Agreement shall have effect:
  - a) with respect to exchange of information under Article 24 in relation to criminal tax matters, on that date;
  - b) with respect to taxes due at source on income credited or payable on or after January 1 of the year next following the year in which the Agreement entered into force; and
  - c) with respect to taxes other than taxes due at source on income of taxable periods beginning on or after January 1 of the year next following the year in which the Agreement entered into force.

**ARTICLE 27**  
**TERMINATION**

This Agreement shall remain in force until terminated by a Party. Either Party may terminate the Agreement by giving to the other Party written notice of termination not later than the 30th June of any calendar year following that in which the Agreement entered into force. In the event of termination before July 1 of such year, the Agreement shall cease to have effect:

- a) with respect to taxes due at source on income credited or payable from January 1 of the year next following the year in which the notice of termination is given; and
- b) with respect to taxes other than taxes due at source on income of taxable periods beginning on or after January 1 of the year next following the year in which the notice of termination is given.

**IN WITNESS WHEREOF** the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

**DONE** in duplicate at London, United Kingdom this twenty fourth day of January, 2013 in the English language.

**For the States of  
Guernsey**

**For the Government of  
the Isle of Man**

## PROTOCOL

At the moment of signing the Agreement between the States of Guernsey and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income ("the Agreement"), the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement.

It is understood that:

1. For the purposes of paragraph 3 of Article 6, the term "use in any other form of immovable property" shall include any income or gains derived from the development of land and property in which the person receiving that income or gain has an interest.
2. The competent authorities shall take into consideration the commentaries pertaining to the OECD Model Convention on Income and on Capital, as it may be revised from time to time, ("OECD Model Convention") when interpreting provisions of this Agreement that are identical to the provisions in that OECD Model Convention. The understanding in the preceding sentence will not apply with respect to the following:
  - a) any contrary interpretations in this Protocol;
  - b) any contrary interpretation agreed on by the competent authorities;

- c) any revisions to the commentaries since the version dated July 2010 unless agreed by the competent authorities.

**IN WITNESS WHEREOF** the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

**DONE** in duplicate at London, United Kingdom this twenty fourth day of January, 2013 in the English language.

**For the States of  
Guernsey**

**For the Government of  
the Isle of Man**

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

The States are asked to decide:-

VI.- Whether after consideration of the Report dated 26<sup>th</sup> February, 2013, of the Treasury and Resources Department, they are of the opinion to:

1. Ratify the Agreements made with the Governments of the Isle of Man and Jersey, as appended to this Report, so that they have effect in accordance with section 172(1) of the Income Tax Law.
2. In relation to the Agreement with the Government of Jersey, signed in 1955, revoke its Resolution made on 22 June 1955, under section 23(1) of the Income Tax (Guernsey) Law, 1950, as amended, in accordance with section 172(2) of the Income Tax Law.

## COMMERCE AND EMPLOYMENT DEPARTMENT

### LIMITED LIABILITY PARTNERSHIPS – SUPPLEMENTARY STATES REPORT

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

26<sup>th</sup> February 2013

Dear Sir

#### 1. Executive Summary

- 1.1. In April 2009 the States of Guernsey approved a Report from the Commerce and Employment Department (“the Department”) entitled, “Limited Liability Partnerships”<sup>1</sup> which recommended the introduction of legislation to enable the formation of limited liability partnerships (“LLPs”) in Guernsey. For ease of reference, a copy of that States Report is appended to this supplementary States Report.
- 1.2. The Department has worked closely with the Law Officers to produce the relevant legislation and conducted a detailed public consultation on that draft law. During the drafting and consultation a number of matters were identified which required the preparation of this supplementary States Report.
- 1.3. The key proposals outlined in this supplementary Report are:
  - Clarifying the liability of members to ensure that liability can be excluded, limited or varied by contract where it is “reasonable” to do so (i.e. in respect of clients which are acting for purposes relating to their trade, business or profession) or “fair” to do so (i.e. in respect of clients acting for purposes outside their trade, business or profession) (see section 2 below),
  - Removing the ability for LLPs to elect to have separate legal personality and instead requiring all LLPs to have separate legal personality (see section 3 below),
  - Removing the obligation for the partnership agreement to be filed with the Company Registry and instead requiring it to be held at the registered office of the LLP and available to the resident agent of the LLP (see section 4 below),
  - Permitting LLPs to contract out of unfair prejudice and statutory derivative claims (see section 5 below), and
  - Inserting enabling powers to permit the States to introduce further innovations by Ordinance in the future (see section 6 below).

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<sup>1</sup> Article IX of Billet d’Etat No. XI of 2009

## 2. Clarifying Member Liability

- 2.1. In order to make sure that Guernsey LLPs are internationally competitive it is vital that the manner in which they permit contractual limitation of liability is consistent with current commercial practice in Guernsey and other major competitor jurisdictions. In order to achieve this outcome it must be permissible for an LLP to contractually limit its liability and the liability of its members, employees and agents in certain circumstances. The original States Report made it clear that members of an LLP would remain personally liable for their own actions. It is not proposed to change that underlying principal. However examination of the legal position in the UK reveals that under the UK legislation LLPs are entitled to contractually limit their liability, and the liability of their members through their contractual terms of engagement, provided that such limitation is fair and reasonable in the circumstances.
- 2.2. It is also important to ensure that using a Guernsey LLP does not result in a professional firm being in a worse position than they currently are when using a Guernsey general partnership. It is common practice for Guernsey general partnerships, particularly legal professionals, to contractually limit their liability through their terms of engagement. On a strict reading of the proposals in the original States Report that would not be permitted and members of an LLP would be unable to limit their personal liability via their terms of engagement. This is inconsistent with current commercial practice for Guernsey general partnerships where contractual limitations of liability are commonplace and enforceable. In addition many professional firms in Guernsey already practice through a UK LLP.
- 2.3. Guernsey's professional services firms provide services to a wide range of clients. For example a firm of Advocates or Accountants might be providing advice and services to highly sophisticated clients involved in multi-jurisdictional transactions where the sums involved may be substantial. That same firm may also be providing advice to Guernsey residents on matters such as property conveyancing, small business accounting or personal taxation. The LLP Law must be flexible enough to deal with both circumstances in a fair and reasonable manner.
- 2.4. The Guernsey LLP is broadly consistent with its UK counterpart. Were this not the case, it is likely that the Guernsey legislation will not be internationally competitive and the potential economic benefit not be fully realised. In order to achieve this objective it is proposed that the Law should provide that:
  - An LLP may by contract (e.g. through its terms of engagement) exclude, limit or alter the potential liability of the LLP and of the member, employee or agent carrying out the specific work,
  - Members, employees, agents (or other persons referred to in such contract) shall have the direct contractual benefit of such an exclusion, limitation or alteration,



notwithstanding the fact that they are not parties to such contract (as such contracts will usually be between the LLP and the client),

- Where the client is acting for purposes relating to their trade, business or profession any contractual exclusion, limitation or alteration of liability must be “reasonable” in the circumstances, and
- Where the client is acting for purposes outside their trade, business or profession any contractual exclusion, limitation or alteration of liability must be “fair” in the circumstances.

2.5. The question of whether a limitation is “fair” or “reasonable” will be dependent on the nature of the client and the transaction in question. In considering whether a term is “fair” or “reasonable” the factors which should be considered by the Courts include:

- The nature and complexity of the transaction,
- The experience, expertise and sophistication of the client,
- Whether, in respect of a client acting for purposes relating to their trade, business or profession, the exclusion, limitation or alteration of liability is “reasonable” in all the circumstances of the case, and
- Whether, in respect of a client acting for purposes outside of their trade, business or profession, the exclusion, limitation or alteration of liability is “fair” in all the circumstances of the case.

2.6. These clarifications will ensure that Guernsey’s LLP Law is consistent with the laws in competitor jurisdictions and will ensure Guernsey’s offering remains internationally competitive, whilst ensuring an appropriate level of consumer protection.

### **3. Separate Legal Personality**

3.1. At paragraph 5.2 of the original Report it was proposed that a Guernsey LLP would have the option to “elect” to have separate legal personality. Under this proposal it was envisaged that ordinarily an LLP would not have separate legal personality but could choose that option at the time of formation.

3.2. However during preparation of the draft law it became apparent that achieving such flexibility was difficult and created a potential conflict between the primary objective of the LLP Law, which was to permit members to have limited liability for the acts and omissions of other members.

3.3. As set out in paragraph 5.3 of the original States Report the primary policy objective behind the introduction of LLP legislation is to permit members of an LLP to have limited liability for the acts and omissions of other members. Each member would remain liable for his or her own acts or omissions but not for those of other members. By making the LLP a separate legal person the liability of the LLP and the liability of each member could be easily defined and separated from the liability of the other members. Achieving that objective with

an unincorporated LLP proved to be complex and uncertain and likely to make Guernsey LLPs unattractive for international business.

- 3.4. Given the complexity and uncertainty the Department is now recommending that all LLPs should have separate legal personality. If a person wished to take legal action against an LLP they would have a claim against the LLP as the legal entity as well as against any member which had breached their duty to that person.

#### **4. Partnership Agreement**

- 4.1. In paragraph 5.1 of the States Report it was proposed that the partnership agreement for an LLP would need to be filed with the Company Registrar at the date of formation, with amendments being filed thereafter. Historically the filing of constitutional documents such as the articles of incorporation of a company have been required to ensure that when third parties transact with a legal entity they can be satisfied that the legal entity is acting within its powers. However the Department is proposing that an LLP should have unlimited capacity and therefore, when dealing with an LLP, third parties can be confident that the LLP is acting within its legal powers. This means there is no public protection argument for placing partnership agreements on the public record.
- 4.2. In addition an LLP differs from a company in that it is an arrangement between individuals, all of whom have a right to participate in the management of the LLP. In a company there is a distinction between the management and ownership. Those who own the company, the shareholders, do not have a right to participate in the day to day management of the company. As a result it is important that shareholders have access to the articles of incorporation to enable them to protect their rights. Placing the articles on the public record is an inexpensive means of making sure shareholders have ready access to enable them to protect their interests.
- 4.3. In an LLP all members may participate in the management of the company and therefore will have access to the partnership agreement. Given the difference between companies and LLPs the Department does not consider that corporate governance justifies requiring partnership agreements to be filed with the Registrar.
- 4.4. Guernsey does not currently require the partnership agreement to be filed for Limited Partnerships or indeed Guernsey general partnerships. The Department considers that LLPs should be treated the same as other partnerships entities. The partnership agreement will need to be kept at the registered office of the LLP and will be available to the relevant authorities (via the resident agent of the LLP) to ensure that Guernsey can meet its international obligations with respect to law enforcement, regulation and tax co-operation.

- 4.5. This will also reduce the administrative burden on LLPs by reducing the need to file information with the Company Registrar. This minimises compliance and administration costs.

## **5. Unfair Prejudice and Derivative Actions**

- 5.1. During the consultation process on the draft Law a number of respondents suggested that the draft Law should address a number of complications which have arisen in practice with UK LLPs. Those complications concern common law claims for unfair prejudice and derivative actions. Both causes of action developed out of company law in England and Wales. Since the introduction of LLPs in the UK both actions have been brought with respect to LLPs. This has resulted in a degree of uncertainty with respect to UK LLPs and the feedback from industry has suggested that Guernsey's law should clarify how those causes of action apply with respect to a Guernsey LLP. By ensuring legal certainty Guernsey LLPs will be attractive to international business.

### Unfair Prejudice

- 5.2. In company law unfair prejudice arises when a minority of shareholders bring a claim against the directors of a company on the basis that the company is being run in a manner which is prejudicial to the interests of those shareholders. In such a claim a court can make a variety of orders with respect to the management of the company to ensure that the minority shareholders' interests are respected.

### Derivative Action

- 5.3. A derivative action arises where the company may have a legal claim against a third party. The directors may decide not to pursue that claim as they do not believe it to be in the best interests of the company. The shareholders may seek an order from the Court that requires the company to bring that claim against the third party if the shareholders can satisfy the court that doing so is in the best interests of the company. The rights of the shareholders are derived from the legal rights of the company, hence the term "derivative action". A derivative action may be part of an unfair prejudice claim.
- 5.4. Both of these causes of action exist in Guernsey with respect to companies, although the unfair prejudice claim has been codified in the *Companies (Guernsey) Law, 2008*. Upon the introduction of LLPs the claims would be available against LLPs in much the same manner.

### The Proposal

- 5.5. During the consultation it was recommended that the LLP Law should make it clear that the members of an LLP can agree to exclude claims for unfair prejudice and derivative actions. In an LLP all the members of the LLP will have a right to participate in the management of the company. LLPs are also private arrangements between individuals who are carrying on business in common. Given that an LLP will ordinarily be used by professionals such as

lawyers, accountants etc, then it should be permissible for all of the members of an LLP to agree that unfair prejudice and derivative actions should not apply to their particular LLP.

- 5.6. The Department is recommending that to ensure both flexibility and legal certainty that the LLP Law confirms that both the unfair prejudice and derivative actions will apply to LLPs. The usual position will be that both remedies will be available against an LLP. However, the members of an LLP may exclude both causes of action from applying to their particular LLP. This can be done through unanimous agreement or by including such exclusion in the members' agreement of the LLP.

## **6. Future Innovations**

- 6.1. During the consultation process a number of further innovations were suggested including:
- The power to allow names of LLPs to be in a language other than English,
  - The power to convert other legal entities into LLPs and for LLPs to convert into other legal entities,
  - The power for LLPs to amalgamate with each other.
- 6.2. Introducing the LLP law is a priority of the Department. Further drafting and consultation would add a significant amount of time to the finalisation of the draft Law. The Department is recommending that the Law contain powers to introduce the above innovations by Ordinance. Once the Law is in force and has been operating for a period of time the Department will consult on the introduction of these further innovations and report back to the States with its recommendations

## **7. Consultation**

- 7.1. Following the approval of the States Report in April 2009 the Department has worked closely with the Law Officers to prepare an initial draft of the legislation. Once that draft was finalised the Department went through the following consultation process:
- In late 2011 the Department provided the draft to a working party of local experts for feedback on the initial draft. The working party comments were received in early 2012.
  - In March 2012 the Department launched a public consultation on the draft law which ran until the end of April 2012.
- 7.2. The Department received detailed comments on a range of aspects of the Law, the majority of which have been incorporated into the draft legislation. Much of the content of this supplementary States Report is a direct result of feedback received during the consultation.

- 7.3. The Guernsey Financial Services Commission has also been consulted and their feedback has been incorporated into the draft legislation. The Law Officers have been consulted and raise no issues with the proposals in this supplementary States Report.

## **8. Legislation and Resources**

- 8.1. Draft LLP legislation has been prepared to implement the States resolution in April 2009. The matters contained in this supplementary States Report will not require significant drafting resources and the bulk of legislative drafting has been concluded.
- 8.2. The additional matters outlined in this supplementary States Report will not have any impact on the resources of the States. The introduction of LLPs will result in an additional revenue stream for the Guernsey Registry.  
While it is difficult to estimate the likely demand for LLPs the Department estimates that should those local professional firms currently practising as general partnerships choose to convert to LLPs then that would result in an additional £15,000 of annual revenue for the Registry. There may be further demand for the structure in the international financial services industry and if so then the number of LLPs may increase over time as has been the experience with Limited Partnerships.
- 8.3. The Department considers that it has complied with the six principles of good governance in the preparation of this States Report.

## **9. Recommendation**

- 9.1. The Department recommends that the States:

- (a) Approves the proposals set out sections 2 through 6 in this States Report,
- (b) Directs the preparation of such legislation as may be necessary to give effect to those proposals.

Yours faithfully

K A Stewart  
Minister

A Brouard  
Deputy Minister

D De Lisle  
L Queripel  
H Soulsby

**COMMERCE AND EMPLOYMENT DEPARTMENT****LIMITED LIABILITY PARTNERSHIPS**

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

11<sup>th</sup> March 2009

Dear Sir

**1. Executive Summary**

- 1.1. As part of the ongoing review of Guernsey's commercial laws, the Commerce and Employment Department proposes the introduction of *Limited Liability Partnerships* ("LLPs"). In Guernsey, an LLP will be a new form of business structure that combines features from a traditional partnership with the limited liability available to shareholders in a company. LLPs have been introduced in several other jurisdictions and, while relatively new, are now widely used.
- 1.2. The Department expects that LLPs primarily will be attractive to professional persons. However they may also be suitable for other purposes such as joint ventures. It is not intended that the availability of an LLP be restricted to any particular profession or trade; they will be available as an alternative business structure to suit particular needs. However, if an LLP carries on a regulated activity it will need to be licensed by the Guernsey Financial Services Commission ("the Commission").

**2. Background**

- 2.1. At present there are four main structures available to those wishing to conduct business in Guernsey: a company, a conventional partnership, a limited partnership, or a sole trader. The LLP will add to this range and increase choice for Guernsey entrepreneurs. They have already been introduced in a number of jurisdictions including the United Kingdom and Jersey. The Department has reviewed the legislation from comparative jurisdictions and has the advantage of being able to learn from those other regimes. The Guernsey LLP will offer the flexibility of a partnership with the advantages of some limited liability for the members of the partnership.

- 2.2. An LLP is a different structure to the limited partnership that was first introduced in Guernsey in 1995, but it is not proposed that they will replace them. The key differences in the two structures are outlined below.
- 2.3. Experience from other jurisdictions has shown that LLPs will be most attractive to professional persons, although once introduced they may be attractive to a wider range of businesses. For example, in the UK approximately 16,000 LLPs have been incorporated since the relevant Act was introduced in 2000.
- 2.4. Other jurisdictions that have introduced LLPs (or equivalent structures thereto) include: Canada, China, Greece, Japan, Poland, Romania, Singapore, and the USA<sup>1</sup>.

### **3. Advantages and disadvantages of a conventional partnership**

- 3.1. A 'conventional' partnership is defined as two or more persons carrying on a business with a view to a profit. Much of Guernsey's partnership law was consolidated and restated in the Partnership (Guernsey) Law, 1995. Such partnerships are free to organise their internal management however the partners agree. It is usual practice (although not obligatory) for the partners to enter into a written partnership agreement that sets out its internal rules of the partnership. The formalities and costs involved in setting up a conventional partnership are relatively low. This flexibility is one of the significant advantages of partnerships, as it allows partners to retain a high degree of control over the business.
- 3.2. These partnerships have lower compliance costs than other business structures; much less so than companies. The applicable law is less prescriptive than for a company. It is also the only structure available to some professions, who may be prohibited by their respective professional rules from forming companies or otherwise limiting personal liability.
- 3.3. A key feature is that conventional partnerships, unlike companies, do not have limited liability or separate legal personality; partnership is simply the way in which individual partners may choose to carry on business together. Each partner is personally responsible for the debts and liabilities incurred by each and every other partner in the course of partnership business. Furthermore the liability of the partners for the debts of the partnership is unlimited. This results in individual partners having a relatively high exposure to personal liability. The lack of limited liability means that all of a partner's personal assets may be available to satisfy any liability of the partnership, regardless of whether that partner was responsible for, or even knew of, the debt. Historically, partnerships have managed this risk through the use of indemnity insurance.

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<sup>1</sup> In the USA the laws concerning LLPs are with the States i.e. not Federal. As at the time of writing over 40 States had introduced legislation to introduce LLPs. LLPs have existed in the US in one form or another since approximately 1990.

- 3.4. Modern partnerships take a variety of forms from two individuals running a small business to large global organisations with several hundred partners; this is particularly the case for the legal and accounting professions. In such an organisation, it is possible that many partners may not know each other yet those partners are still jointly and severally liable for the acts and omissions of each other. Arthur Anderson, a worldwide accountancy firm, did not survive the acts or omissions of its US partners in connection with the Enron scandal.
- 3.5. In recent years there has been concern about the potential for large claims brought against partnerships arising out of professional negligence (although negligence is not the only potential risk). An example is litigation against auditors arising out of corporate insolvency. Accounting firms that provide audit services are often sued by the liquidators of failed companies, on behalf of the creditors and shareholders. Claims arising out of an audit will undoubtedly affect other parts of the accountancy practice; parts which have no involvement in the auditing division. The tax division may have no knowledge or control over the particular audit that is the subject of the litigation, yet those partners remain personally liable if the audit division is negligent in conducting the audit. This uncertainty and the difficulties in risk management has led to the result that professional indemnity insurance has generally become more expensive, and in some cases prohibitively so. Furthermore, some accountancy practices establish separate companies to handle those advisory functions that may properly be separated from core accountancy functions.
- 3.6. The cost of professional indemnity insurance is considerable, and is inevitably passed on to the consumers in the form of higher prices.

#### **4. The difference between an LLP and a Limited Partnership ("LP")**

- 4.1. An LLP is distinctly different from an LP and it is not expected that LLPs will replace them. The UK has had LP legislation in place since 1907. Since the introduction of LLPs in 2000, there does not appear to have been any significant reduction in the number of UK LPs. Data from Companies House shows that the number of LPs registered in the United Kingdom increased by an average of 1000 per year since 2002.
- 4.2. In an LP, the general partners are responsible for the day to day management and operation of the partnership, and remain jointly and severally liable for all of its liabilities. The limited partners enjoy limited liability, provided that they play no part in the management of the LP. The limited partners are thus 'passive' investors. This structure is particularly suited to collective investment funds where investors can invest as limited partners and enjoy a degree of limited liability, while the fund's manager acts as general partner and makes the various investment decisions and remains liable for those decisions.
- 4.3. In an LLP all the partners are entitled to participate in the management of the LLP. Each partner remains personally liable for his own actions. LLPs are



more likely to be used for professional activities rather than as investment vehicles. The LLP does not provide the same level of protection to an investor as the LP. Accordingly the Department does not consider that the introduction of LLPs will have any significant effect on the number of LPs in Guernsey.

## **5. Features of an LLP**

### **5.1. The Guernsey LLP will have the following key features:**

- Members of the LLP will not have liability for the negligent acts of other members unless they were party or privy to them although they will remain liable for their own negligence (for further discussion of this point see paragraphs 5.3 and 5.4),
- Unless the members of the partnership elect for the LLP to have a limited life, then the LLP will exist in perpetuity with changes to its members not affecting its legal existence,
- The LLP will be able to elect to have separate legal personality if the members so choose. That choice can be made at formation or alternatively the LLP may elect to adopt separate legal personality at any time, subject to appropriate protection for creditors following such an election,
- Formation of an LLP will be straightforward and will be conducted through the Company Registry,
- An LLP will need to have a registered office in Guernsey at which it must keep its constituting documents, annual validations, accounting and financial records etc,
- An LLP will have internal flexibility with the members being free to agree on how the LLP is to be managed e.g. the members will be able to appoint a secretary to the LLP who can conduct filings with the Registry and otherwise provide administration services to the LLP,
- There will be no restriction on the content of the LLP agreement, however it will need to be written and filed with the Registrar,
- Following incorporation the ongoing reporting requirements will be relatively low. There will be no obligation for an LLP to produce audited accounts, although the members may choose to have the accounts audited if they so wish. The LLP will be required to keep proper accounts and those accounts will need to comply with generally accepted accounting standards, and a regime similar to that in the *Companies (Guernsey) Law, 2008* will be adopted. In addition the LLP must be under a legal duty to keep the assets of the LLP separate from the assets of its members,

- The LLP will have to file an annual validation and will also have to notify the Registrar of changes to its membership, amendments to its constitutive documents, there will be a filing fee associated with such transactions,
  - An LLP can have an unlimited number of members, and the members can be natural persons or other bodies corporate,
  - All members of an LLP will be agents of the LLP and capable of binding the LLP, subject to any restrictions and conditions included in the publicly available constitutive documents,
  - The LLP Law will make provision for the migration of LLPs to and from Guernsey. (The migration regime can be adopted from the 2008 Company Law regime).
- 5.2. A Guernsey LLP will be able to adopt separate legal personality. Regardless of whether it has separate legal personality, the LLP will exist in perpetuity unless dissolved or wound up. A change in the members, through death, retirement, or resignation will not affect the existence of an LLP.
- 5.3. Members of an LLP will have limited liability for the acts or omissions of other members. A creditor will be able to pursue the assets of the LLP but not the personal assets of each and every member. However, individual members will be personally liable for their own actions. For example where a member of an LLP is negligent then that partner will remain personally liable for that negligence. This would allow a creditor to pursue the personal assets of the negligent partner in the event that the assets of the LLP were insufficient to satisfy any judgement. The personal assets of the innocent members of the LLP would be protected. However, if a partner is party or privy to an act or omission that gives rise to personal liability, he will be co-extensively liable with the defaulting member.
- 5.4. In addition to the limitation of liability of members set out above, the Law should specify the following qualifications on the liability of members of an LLP:
- in the absence of a contrary agreement, members of an LLP should not be personally liable in respect of an LLP's breach of contract,
  - A member of an LLP will not be personally liable for the fraud of an LLP unless that member was a party to the fraud or otherwise knowingly involved in that fraud.
- 5.5. This provides a degree of protection to consumers and should allow professionals to use the LLP structure. Whether any particular profession is permitted to practice through an LLP structure will depend on that profession's own rules and is a decision of the governing body of that particular profession.

## 6. Formation of an LLP

6.1. An LLP will only come into existence once it has been registered by the Company Registrar, following receipt of an appropriate application and the payment of such fee as is prescribed by the Registrar. At a minimum the application must:

- Identify the names and addresses of the original partners (of which there must be at least two),
- Specify the nature of the activities to be conducted by the LLP (which need not be carrying on business with a view to a profit, but must be a lawful activity),
- Provide a name for the LLP. (The provisions on names for LLPs should mirror those contained in the *Companies (Guernsey) Law, 2008*),
- Provide a written copy of the partnership agreement. The LLP will be required to have a written partnership agreement at all times,
- Identify the LLPs registered office which must be situated in Guernsey.

6.2. To ensure that the administrative costs of an LLP are kept to a minimum only a small number of matters will need to be filed with the Registrar on an ongoing basis, (all of which shall be available for inspection on the Register of LLPs):

- Any change to the identity of the members or the LLP,
- The members of an LLP will need to provide an address for service, changes of which must be notified to the Registrar,
- The members of an LLP will need to provide a residential address to the Registrar, however much as is the case of directors under the *Companies (Guernsey) Law, 2008* such information will not be publicly available,
- The LLP will need to notify the Registrar of any changes to its partnership agreement, such changes should only be permitted by a resolution of 75% of the members (or such other percentage as set out in the partnership agreement),
- The LLP will need to file an annual validation with the Registry each year.

6.3. An application to form an LLP will be made to the Company Registrar. Only corporate service providers will be able to form LLPs (using the online service currently offered by the Registry.)

- 6.4. The Registrar will be given the power to levy fees for incorporating or registering LLPs. He will also be entitled to charge on-going fees for carrying out any of his functions under the Law. The Registrar shall prescribe the fees by regulation after consulting with the Commerce and Employment Department. The level of fees should be set to produce revenue for the Registry and ultimately the States.
- 6.5. The Department and the Company Registrar intend to conduct public consultation on the level of fees prior to the Law coming into force.
- 6.6. The Law should enable to creation of an electronic registry for LLPs. This may require some further development of the IT system in the Company Registry and the Registrar shall liaise with the Commerce and Employment Department regarding the on-going development costs.

## **7. Ongoing feature of the Guernsey LLP**

- 7.1. The Law will also set out the requirements for a valid LLP agreement and contain a number of minimum provisions concerning the internal management of the LLP. The minimum requirements would set out the following:
  - That a member of an LLP may resign in writing at any time,
  - That once resigned the member may realise his capital at that time,
  - That all members have the right to share in the management of the LLP,
  - That on the death or insolvency of a member of an LLP their capital is realised and vested in whomsoever is administering that member's estate.
- 7.2. Those provisions will operate where the LLP agreement does not provide for certain matters. The members of the LLP could choose to implement alternative arrangements in their written agreement.
- 7.3. The Law should give the Commerce and Employment Department the discretion to prescribe a standard partnership agreement in due course. This power should only be exercised if there is sufficient industry demand. Unlike the position under the *Companies (Guernsey) Law, 2008* the Department will need to examine the uses to which LLPs are being put before being able to determine whether or not it is appropriate or practicable to prescribe a standard LLP agreement.
- 7.4. On incorporation the members of an LLP will be those individuals whose names are on the incorporation document. Thereafter the LLP agreement may prescribe how another person may become a member of the LLP.
- 7.5. The partnership agreement may make such provision for management and administration of the LLP as agreed between the members. In the event of a

dispute between the members, the Royal Court shall have jurisdiction to interpret and enforce the LLP agreement as if it were a contract between each of the members and between the members and the LLP.

- 7.6 All LLPs will be required to identify to the public that they are an LLP by including the term “Limited Liability Partnership” or “LLP” on all correspondence and at the registered office of the LLP.

## **8. Other Aspects of the LLP Law**

- 8.1. LLPs should be able to indemnify its members out of the assets of the LLP. The indemnity may be included in the LLP agreement. LLPs shall be permitted to purchase insurance for its members.
- 8.2. The Law should also ensure that there is a clear distinction between the members of the LLP and those employed by the LLP. The Law must be clear that employees of the LLP are not to be considered members. The members of an LLP will only be those members registered with the Registry.
- 8.3. The Law should provide a mechanism for disqualifying individuals from being members of an LLP. The disqualification provision should be similar to those which apply to directors under the *Companies (Guernsey) Law, 2008*.

## **9. Transfer of Partnerships into LLP's**

- 9.1. Existing conventional Guernsey partnerships would be able become an LLP if they so chose, subject to any restrictions imposed by professional bodies. It would be necessary to apply to the Registrar in the same manner as set out above. Where the application was made by a professional partnership, such as lawyers, accountants, or medical practitioners, the application would need to be accompanied by evidence that the appropriate professional body responsible for admitting members to that profession had consented to members of that profession practising through an LLP. That consent could be granted on a general or specific basis and be subject to conditions if the appropriate professional body saw fit.
- 9.2. Prior to making an application it would be necessary for the partnership to give public notice of the partnership's intention to convert to an LLP and give any interested person an opportunity to make representations to the Registrar on the application. The Law will specify how such notices are to be given.
- 9.3. The Law will require transitional arrangements for those ordinary partnerships that decide to become LLPs. A converted LLP will not provide retrospective limited liability. For all creditors of the partnership where the liability was incurred prior to incorporation of the LLP, the partners will remain jointly and severally liable. This will prevent LLPs from being formed to defraud creditors.

- 9.4. The Law should also allow for a company to convert to an LLP and vice versa provided that creditor's rights are not affected. Again the model used in the *Companies (Guernsey) Law, 2008* can be adapted.

## **10. Insolvency and Winding Up**

- 10.1. In the UK insolvency of an LLP is governed by the general insolvency law with a range of modifications through regulations issued by the government. This system is complicated and inappropriate for Guernsey. The Law should instead have a stand alone insolvency regime for LLPs similar to that in the *Companies (Guernsey) Law, 2008*.

## **11. Consultation**

- 11.1. The Department released a public consultation document in 2008 to which it has had numerous responses, uniformly supportive of the introduction of LLPs. Many of the suggestions made by industry have been incorporated into this Report. The Guernsey Bar and the Guernsey Society of Chartered and Certified Accountants have also been consulted.
- 11.2. The Law Officers have been consulted and raise no objections to the introduction of an LLP Law along the proposed lines.

## **12. Legislation**

- 12.1. A Projet de Loi will be required to introduce LLPs into Guernsey.

## **13. Recommendation**

- 13.1. The Department recommends the States resolve:
- (a) to approve the introduction of LLPs in Guernsey as outlined in this Report; and
  - (b) to direct the preparation of such legislation as may be necessary to give effect to the foregoing.

Yours faithfully

C S McNulty Bauer  
Minister

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

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

The States are asked to decide:-

XI.- Whether, after consideration of the Report dated 11<sup>th</sup> March, 2009, of the Commerce and Employment Department, they are of the opinion:-

1. To approve the introduction of Limited Liability Partnerships in Guernsey as outlined in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

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

**(NB The Policy Council has no comments on the proposals.)**

VII.- Whether, after consideration of the Report dated 26<sup>th</sup> February, 2013, of the Commerce and Employment Department, they are of the opinion:-

1. To approve the proposals set out sections 2 through 6 in the States Report.
2. To direct the preparation of such legislation as may be necessary to give effect to those proposals.



## PUBLIC SERVICES DEPARTMENT

### PORTS MASTER PLAN

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

8<sup>th</sup> March 2013

Dear Sir

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

- 1.1 Guernsey's harbours are historic ports that have been adapted over time to meet changing needs. At some stages the harbours have undergone significant development but for the most part development and maintenance projects have not been based on any overarching strategic direction or plan for the harbour areas.
- 1.2 As the Ports' requirements continue to evolve, the Public Services Department [the Department] has recognised that it has become increasingly important to have a Ports Master Plan to steer coordinated progression into the future and to maximise opportunities in and around the harbours. A copy of the report can be found at [www.gov.gg/portsmasterplan](http://www.gov.gg/portsmasterplan).
- 1.3 The Ports Master Plan highlights the opportunities for development and at the same time recognises the scale of investment required to deliver the key priorities.
- 1.4 Specific objectives, including the relocation of the fuel discharging operation from St Sampson's harbour to a more appropriate and isolated berth and compliance with International Ship and Port Facility Security Code (ISPS), are critical and must feature in the Island's works programme within the life of this Master Plan.
- 1.5 Accommodating visitors arriving by ferry, cruise liner or yacht, or those simply enjoying the unique setting of the harbours, represents an investment in the reputation of the island; an investment in the tourism industry; and in businesses that rely on these visitors. Measures to improve the experience must factor in the planning of facilities and investment over the next 25 years.
- 1.6 Not all change needs to be driven by external factors. There is opportunity to transform the waterfronts of St Peter Port and St Sampson's, adopting the best of what is there and supplementing it to make the harbours the focus of both communities in spirit as well as location. Recommendations to pursue an

integrated transport and parking strategy, to separate conflicting uses along the waterfront, are explicit in the Master Plan, as is the scope to regenerate the waterfront areas and consolidate industrial activity away from public areas.

- 1.7 The Public Services Department is presenting this document under Rule 12 (4) with the aim of stimulating debate and hearing the views of States Members.

## **2 Overview**

- 2.1 The States of Guernsey Public Services Department is responsible, through Guernsey Harbours, for a wide range of maritime functions. This includes management and operation of the harbours at St Peter Port and St Sampson's.
- 2.2 The ports infrastructure is of vital strategic importance to the Bailiwick, with the ports handling 98% of all Guernsey's freight imports and exports, including 100% of all liquid hydrocarbon fuel imports.
- 2.3 St Peter Port Harbour provides essential links to key ports on the south coast of the UK and to France, as well as Jersey, Alderney, Sark and Herm, carrying around 33% of all in- and outbound passengers.
- 2.4 Guernsey Harbours' functions also include provision and administration of terminal facilities, moorings, ships' registry, pilotage, coastguards, aids to navigation, and facilities maintenance.
- 2.5 The ports are essential for the import and export of goods and therefore are integral to the commercial success of the islands. While a significant employer in their own right, the ports also have a direct impact on local businesses, generating secondary employment in marine-related industry and stimulating tourism/recreation associated with the marinas and cruise facilities.

## **3 The purpose of a Ports Master Plan**

- 3.1 Throughout their existence, Guernsey's harbours have undergone various development and maintenance projects without having any overarching strategic direction or plan. As the requirements continue to evolve, it has become increasingly important to steer coordinated progression into the future. It was determined that an effective way to address this issue would be to prepare a Ports Master Plan, which is an accepted way of preparing for and co-ordinating the strategic development of ports around the world.
- 3.2 A Ports Master Plan would also enable the States of Guernsey to identify and respond to priorities affecting the harbours.
- 3.3 The objectives at the outset were that the Ports Master Plan should :
  - Inform the States of Guernsey through the Public Services Department as to its maritime requirements
  - Ensure the harbours are fit for purpose in the long term
  - Ensure sustainable port development.
  - Enable the ports to meet changing needs

- Aid the efficient management and operation of Guernsey Harbours
  - Ensure all proposed developments satisfy the governmental, legal, environmental and social constraints specific to Guernsey, including the States of Guernsey Strategic Land Use Plan and the policies contained in any States approved Development Plan
- 3.4 Therefore, the Master Plan is a document that examines the future of the ports and begins to identify what the States of Guernsey should consider to be the priority issues for their effective operation as functional ports whilst also examining the areas of opportunity for other development in and around the harbours which could enhance them. Importantly, it sets these priorities in a strategic context.
- 3.5 There are many different businesses, interest groups and public sector organisations involved in Guernsey's harbours. A Master Plan is a way of coordinating all of these different interests, so that everyone works towards a shared vision for the future.
- 3.6 The Ports Master Plan is a key document establishing the future strategic direction for the harbours, not just in the immediate future, but for a 25 year time horizon.
- 3.7 Coordinated and strategic planning is especially important for deciding how and when to invest in the harbours. At present, this investment is likely to rely upon public money but with a limited amount of funds available other opportunities should be explored.
- 3.8 One of the objectives of the Master Plan is to make best use of the land at the ports and to give greater certainty to current and future tenants, commercial operators and other stakeholders.
- 3.9 In the past, the harbour areas have been operated and managed exclusively by the Guernsey Harbours (formerly Harbour Authority) which has concerned itself with the interests of the harbours alone. Therefore, opportunities to identify non-operationally essential areas which may have wider, corporate benefits if developed for other purposes have not been identified. The Ports Master Plan enables the States to identify where strategic requirements of the Island could be delivered in line with other corporate policies.
- 3.10 The scope of the Ports Master Plan was specific, and is set out in the terms of reference for the report. It adopts and builds upon earlier work by Public Services to present:
- An overview of the ports' existing trading operation
  - Consideration of the ports "within an island context", where the ports constitute an essential service
  - A review of the current ports' infrastructures and the future demands which the ports will have to meet
  - An assessment and outline of proposals for development to meet the ports' future demands

- Identification of the most strategically important developments for the ports over the medium to long-term
  - Implementation programmes required for the recommended changes
  - Consideration of funding mechanisms for future developments
- 3.11 The ports operate in a dynamic commercial world and it is essential that they should have the flexibility to adapt to changing patterns of demand, and respond to competitive opportunities.

#### **4 Incorporating a strategic approach**

- 4.1 A Ports Master Plan is vital to the Department, as all States Departments submitting proposals for infrastructure investment need to present such proposals in the context of a 20 year programme and the Ports Master Plan will provide this.
- 4.2 In addition, Guernsey's harbours are more than just ports. For instance, St Peter Port Harbour is a 'gateway to Guernsey'. This means the ports have to be planned and developed in ways that consider and take account of other States of Guernsey plans and strategies.
- 4.3 The States-approved Strategic Land Use Plan (SLUP) identifies under Policy LP8 that the two harbours form an integral part of the main centres of Town and the Bridge. The SLUP specifically identifies the need to produce a harbour strategy that not only makes provision for functional requirements but also meets the wider social, economic and environmental objectives of the States. Such a strategy should identify areas for commercial development and expansion as well as areas for leisure and retail development. The SLUP guides the Environment Department in the preparation of more detailed policies which will be included in the Development Plan and against which planning applications for development will be judged.
- 4.4 The Department has been working closely with the Planning Division of the Environment Department to examine whether the areas of opportunity for development and enhancement identified in and around the harbours are consistent with current and emerging planning policy, are compatible with other emerging interests for the Town and Bridge areas and that all the harbour opportunities and port requirements are taken into account as part of the review of the current Development Plans.
- 4.5 The Environment Department is currently undertaking a review of the Island's Development Plans which are being prepared in conformity with the SLUP. Therefore, having a Ports Master Plan completed this year will mean that the planning system will be able, where appropriate, to take account of the Ports Master Plan when formulating policies and send a positive message to current and potential investors/users.
- 4.6 The States of Guernsey is also working on a number of other significant and influential documents. The Island Infrastructure Plan (IIP) will facilitate decision making in respect of essential public infrastructure investment by the States and

the private sector over the next 20 or so years. The Financial Transformation Programme is assessing the use of all States-owned property in terms of its fitness for purpose and its future requirement. At the time of writing, the States Strategic Plan was due to be debated by the States in March and this Plan refers to the need to produce a 'Government Service Plan' that will identify the States' priorities for the current term of office. The Ports Master Plan will need to be read in conjunction with all of these documents, which will all have a direct effect on the capital prioritisation process.

## **5 Key Priorities identified by the Ports Master Plan**

5.1 Following the production of the Ports Master Plan, the Department has been given recommendations on the items below. It will explore the best way to meet these challenges.

- Continuing planned maintenance investment in major infrastructure

The most urgent of these works are:

- i) **Deep water berth – Finding a long term solution to Guernsey's liquid bulk requirements and ensuring the long-term viability of fuel deliveries.**
- ii) **Relocating the security line at St Peter Port Harbour to ensure Guernsey meets security requirements to allow existing ships to continue to adhere to international laws when using the Harbour.**
- iii) **Repair work and possible enhancement of the Fish Quay.**
- iv) **Enhancing facilities for cruise liner passengers arriving by tender.**
- Providing capacity for the estimated growth in freight throughout the next 25 years
- Maximising the use of available areas and sites (increasing income)
- Potentially relocating non-port related uses and non-essential port uses at St Peter Port Harbour to increase port capacity
- Continuing investment in new port facilities
- Improving vehicular access
- Improving public access to the terminal building including potential relocation of the passenger terminal if the security line is relocated
- Considering potential uses of the Careening Hard and surrounding areas
- Investigating increasing the number of marina berths to cope with demand
- Making amenity, aesthetic and environmental enhancements (in partnership with other States departments and organisations such as the Visions Team)
- Maintaining the harbours' role as an important source of employment opportunities, both direct and indirect

- 5.2 The Ports Master Plan explores the possibility of developing a dedicated cruise liner berth as directed by the States on 9 February 2012<sup>1</sup>. Whilst a desirable project for Guernsey, the Department considers that the extremely high investment requirement for this project cannot be justified based on financial revenues or economic benefits.
- 5.3 Resolution of the fuel discharge issues at St Sampson's Harbour and enhancement of the marine recreational and other elements in St Peter Port would appear to have stronger justification and a higher priority in terms of benefits to the overall community.
- 5.4 Notwithstanding this, the Department will work with the Commerce and Employment and Culture and Leisure Departments on enhancing facilities for cruise liner passengers arriving by tender and making improvements to this "gateway to Guernsey".
- 5.5 The Careening Hard is a large and underutilised 'wet' area of St Peter Port Harbour which has potential for reconfiguration and development. The previous States acknowledged the merit of developing the area as part of the last Capital Prioritisation debate but the project was not regarded as being a top priority. The potential contribution of this area within the context of the waterfront must be acknowledged. Before it proceeds there would need to be an evaluation of the way the project would fit with other policies and also take into account how other land in the vicinity could be embraced into an integrated redevelopment of this frontage.
- 5.6 It is important for the Department to identify requirements and priorities in advance so that methods for funding can be given due consideration. The Plan identifies the strengths of the harbours and the latent economic value that exists. Therefore, through the Plan, Public Services will be working closely with other States Departments to ensure a range of corporate objectives can be met simultaneously.
- 5.7 This Ports Master Plan looks at how Guernsey Harbours can retain their current success whilst also building business in the future. Investing in infrastructure might be the most obvious means of remaining successful, but taking advantage of opportunities as and when they appear can also provide prosperity for the Island.

## **6 Consultation**

- 6.1 In preparing the Ports Master Plan there was considerable engagement with interested parties, commercial operators, port users, stakeholders and the public. This has formed an integral and important part of the evolution of the Plan.
- 6.2 Engagement with all interested parties is an important process within any major master planning proposal. It is a continuous process that seeks to listen, gain understanding, incorporate thoughts and ideas, and report back as the Master

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<sup>1</sup> Billet d'État No III, 25 January 2012.

Plan continues to evolve. A flow diagram of this process can be seen in Appendix 2.

- 6.3 The Department has involved a wide range of stakeholders including other States' Departments at political and officer level, commercial operators, port users, and community and business groups.
- 6.4 The engagement took place through a variety of stages including a series of meetings with commercial operators and stakeholder workshops and focus groups held between May and July 2012. The workshops were interactive and included discussions on a wide range of scenarios by broad cross section of representatives. To support the workshops, a series of public drop-in sessions was held to ensure any interested person could be involved in the process. The engagement programme was concluded with a public exhibition in September 2012 which was open to all.
- 6.5 Attendance at the workshop sessions was excellent at both the initial and follow-up stages. Attendance at the public sessions was slightly lower than anticipated at the initial stage, better at the follow-up stage and good at the final public exhibition.
- 6.6 Many ideas and comments were captured and considered. A number of those identified during the stakeholder consultation process were used as the basis for detailed options analysis and provided a vital contribution to the proposed developments identified within the Ports Master Plan.
- 6.7 Where appropriate, these have been fed into the final version of the Master Plan and the elements included, on the whole, are those that received wide ranging support at each stage of the engagement process. Consultation feedback broadly aligned with contributions provided for the Environment Department's 'Visioning' exercise.
- 6.8 Above all, the consultation process assisted the Department in gaining a better understanding of the role of the harbours in the community.
- 6.9 The scenarios identified during the stakeholder consultation process were used as the basis for detailed options analysis and provided a vital contribution to the proposed developments identified within the Ports Master Plan.

## **7 Implementation & Review**

- 7.1 The Ports Master Plan does not set out a prescriptive series of projects and States support for this report will not grant approval for any works; rather it provides a framework for setting out the Ports' aspirations, for the medium and long term, and highlights where areas of opportunity could achieve corporate and strategic objectives. This will assist in informing the consideration of capital projects and planning applications made as and when necessary.
- 7.2 Any proposals will have to pay close regard to other States strategies (existing and emerging) and close negotiation and working with other relevant States Departments will be required as and when these schemes come forward. Any

proposals will also need to consider what the implications would be for other strategies (transport and waste for example) and the reverse is also true.

- 7.3 The ports industry is a dynamic sector and hence whilst the Port Master Plan looks at longer term time horizons up to twenty-five years, it is a working document and so it is imperative to undertake reviews of its contents. The Master Plan will be subject to regular monitoring and a formal review every five years.

## **8 Conclusions**

- 8.1 The Ports Master Plan provides a comprehensive understanding of the existing infrastructure, operations and challenges faced by Guernsey's harbours and the Island.
- 8.2 It analyses the existing port facilities and capabilities as well as the constraints upon them and the challenges Guernsey's harbours faces in terms of future requirements.
- 8.3 The Ports Master Plan offers clear but flexible objectives and provides a series of options for the long term planning and strategy to meet the challenges faced by the ports.
- 8.4 It seeks to maximise the efficient use of the limited land available. It will also ensure any future Port development happens in a co-ordinated manner to ensure sufficient consideration is given to how proposals integrate with the future needs of the ports.
- 8.5 In addition, it informs the development of other key corporate projects such as the Development Plan, the Island infrastructure Plan, the Strategic Asset Management Plan and the Government Service Plan. This level of joined up planning will afford maximum opportunity for the States to identify and deliver corporate objectives to the overall benefit of the community.
- 8.6 The Ports Master Plan sets out a strong vision that has a significant long-term role in the economic prosperity of Guernsey. The Master Plan will help support existing businesses, explore the growth of new economic sectors and, as a result, maintain and increase employment in the port areas.
- 8.7 This vision is based on a sound understanding of current constraints and opportunities, and has been robustly tested through a process of appraising options. This appraisal process has informed the development of the final Master Plan, ensuring that it balances maximising opportunities for economic growth with planning policy considerations, sustainability issues and the views of local people.
- 8.8 Those projects which have been identified as priorities will be subject to further, more detailed study in order to identify viable and sustainable schemes. In drawing up proposals, the Department will undertake further consultation with key stakeholders and relevant States Departments.



- 8.9 The process of developing the Master Plan has been very positively supported by key stakeholders, particularly commercial operators and community groups. It is important that the momentum that has been gained through this process is maintained into the future, to turn the Master Plan vision into reality.
- 8.10 The Ports Master Plan will now trigger further work by the Department with details about prioritisation and funding coming forward in due course.

## **9 Recommendations**

The States are recommended:-

To note the contents of this report in accordance with Rule 12 (4) of the Rules of Procedure.

Yours faithfully

P Luxon  
Minister

Other Members of the Department are:

S J Ogier, Deputy Minister  
R Jones

D Duquemin  
Y Burford

**Appendix 1****PRINCIPLES OF GOOD GOVERNANCE****Compliance with the Principles of Good Governance**

In accordance with Resolution VI of 2011 (Billet d'État IV, 2011 refers) this annex sets out the degree to which the Public Services Department considers that the Report complies with the six principles of good governance as detailed in the aforementioned Billet d'État.

**Core Principle 1 – Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users.**

*The Department develops policy in accordance with States Strategic Objectives and this report provides a long-term vision for key pieces of Guernsey's infrastructure.*

This report recognises the role of Government is to facilitate and encourage economic development to the benefit of the community and to meet the needs of customers, and to ensure users of the ports operate in a safe working environment.

**Core Principle 2 – Good governance means performing effectively in clearly defined functions and roles.**

The Public Services Department is responsible for Port and Maritime matters and therefore deals with the port facilities required by ships and their passengers.

The States of Guernsey has an overarching function and role in guiding and giving direction to Departments on major issues and developments such as proposed in this report.

**Core Principle 3 – Good governance means promoting good values for the whole organisation and demonstrating the values of good governance through behaviour.**

The Ports Master Plan has been developed through consultation, which included discussions with other States Departments that had an active interest in the harbours. In this way expertise from across States Departments was combined and used to achieve good value for the States as an organisation.

**Core Principle 4 – Good governance means taking informed, transparent decisions and managing risk.**

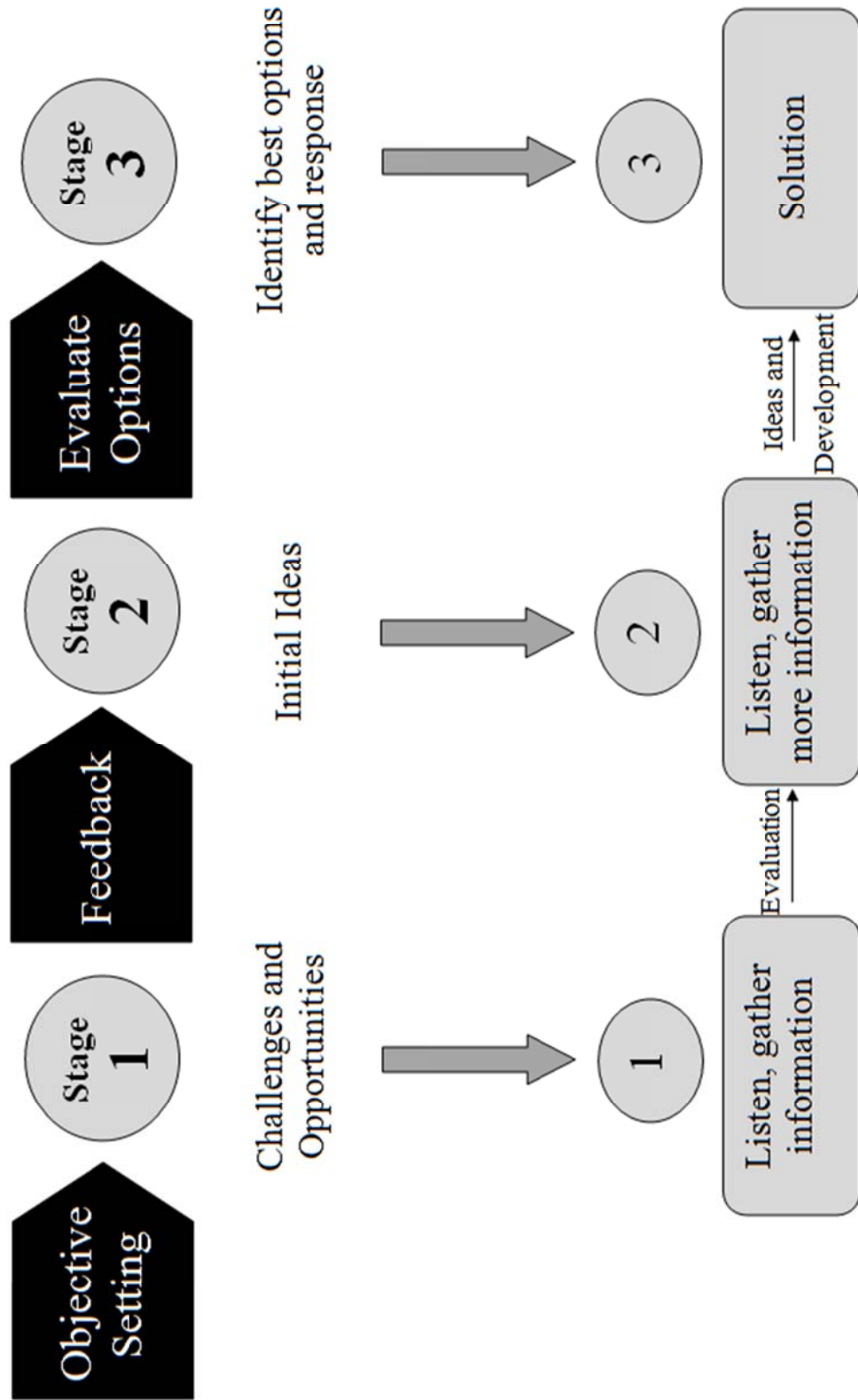
This report is about engagement with the States and the public such that any development of the ports is progressed in an open and transparent manner.

**Core Principle 5 – Good governance means developing the capacity and capability of the governing body to be effective.**

The opportunity for corporate capacity development was taken by having officers working alongside the external advisors to allow them the opportunity to understand more about the processes of master planning in a ports context.

**Core Principle 6 – Good governance means engaging stakeholders and making accountability real.**

In preparing this report there has been considerable engagement with interested parties, commercial operators, port users, stakeholders and the public has formed an integral and important part of the evolution of the Ports Master Plan.



**(NB The Treasury and Resources Department has commented as follows:**

**The Treasury and Resources Department is supportive of the production of a clear and cohesive long-term vision for the Ports which can be used to facilitate further research and preparation of detailed business plans and development of financing options for each of the individual opportunities and issues.**

**It is anticipated that any capital investments proposals will, where appropriate, be incorporated into the development of the Strategic Asset Management Plan and / or the Island Infrastructure Plan. Whilst it is noted that some of the options for capital investment will, at least partially, be suitable for private funding arrangements, it is essential that any requests for additional public funding are assessed against other States priorities and not considered in isolation.**

**The Treasury and Resources looks forward to understanding in more detail the Public Services Department's proposal for the future redevelopment of the Ports as well as the model for the Future Business Environment for the Ports.)**

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

The States are asked to decide:-

VIII.- Whether, after consideration of the Report dated 8<sup>th</sup> March, 2013, of Public Services Department, they are of the opinion:

1. To note the contents of the report in accordance with Rule 12 (4) of the Rules of Procedure.

## **HEALTH AND SOCIAL SERVICES DEPARTMENT**

### **113<sup>th</sup> MEDICAL OFFICER OF HEALTH ANNUAL REPORT**

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

8<sup>th</sup> March 2013

Dear Sir

#### **EXECUTIVE SUMMARY**

1. Pursuant to the answer to a Rule 6 Question submitted by Deputy Matt Fallaize in January 2013, the 113<sup>th</sup> independent report of the Medical Officer of Health (MOH) is appended to this States Report. The Department is simply recommending that the States notes the report.

#### **BACKGROUND TO THE MEDICAL OFFICER OF HEALTH ANNUAL REPORT**

2. The Medical Officer of Health (MOH) was first appointed in Guernsey in 1899. The MOH gives independent objective professional advice on measures to protect and improve the health of the population.
3. The MOH is a statutory role with certain independent functions, which advises both the Health and Social Services Department (HSSD) and other States' Departments on health issues in Guernsey and Alderney.
4. The Guernsey MOH has customarily written an objective scientifically based independent annual report on the health of the population. The report provides evidence-based ideas for future policy or action to improve and protect health.
5. Although the MOH report provides an independent professional opinion, it does not necessarily represent HSSD or States of Guernsey policy.
6. The MOH appointment is made by Policy Council. Dr Bridgman is regulated by the General Medical Council who first registered him in 1980. He was entered on the GMC register as a specialist in public health medicine in 1996. Dr Bridgman is only Guernsey's tenth MOH since 1899. He took up the Guernsey post in 2009.

## IMPLICATIONS

7. The 113<sup>th</sup> independent report of the MOH makes 30 recommendations, many of which, if accepted, would potentially have cross-Departmental implications.
8. As with every report produced by the MOH, Departments are invited to consider the recommendations which relate to their own areas of responsibility, and what response, if any, should be made.

## HSSD CONSIDERATION OF THE REPORT

9. The HSSD Board has a mandate to advise the States on the mental, physical and social wellbeing of the people of the Guernsey and Alderney, and considers the MOH annual reports very important documents in helping it to deliver its mandate.
10. The Board of HSSD is considering the recommendations within the 113<sup>th</sup> MOH report and will decide whether to incorporate any that support the delivery of the 2020 Vision portfolio of work to improve the health of the population.
11. As set out in its 2020 Vision, the Board of HSSD recognises the major impact that the actions other States Departments and sectors of the community have in helping HSSD to make progress on its mandate of improving and protecting the health of the population of Guernsey and Alderney.

## RECOMMENDATION

12. The Health and Social Services Department recommends to the States to note\* the 113<sup>th</sup> independent report of the Medical Officer of Health.

*\*Rules of Procedure 2(2):*

*A proposition the effect of which is to note the report shall be construed as a neutral motion, neither implying assent for, nor disapproval of, the contents of the report concerned.*

M H Dorey  
Minister, Health and Social Services Department

M J Storey  
Deputy Minister

E G Bebb  
Member

B L Brehaut  
Member

S A James  
Member

# 113<sup>th</sup> ANNUAL MOH REPORT Bailiwick of Guernsey

Special theme:  
*'Health Equity'*  
Report for Year 2011/12



£9m. of cuts pale before 'demographic  
time bomb'

Updates on '2020 Vision' strategies



STATES OF GUERNSEY





### Dr Stephen Bridgman

MBChB, DBiomech, MD, MPH,  
FRCS(Ed), FRCS (Glas), FFPH

Medical Officer of Health (MOH),  
Director of Public Health (DPH),  
Chief Medical Officer (CMO),  
Bailiwick of Guernsey

### Acknowledgements

I thank, among others, the following who have contributed or assisted in this independent report;

- Helen Kelso, Janet Wyatt, Debbie Pittman, Anita Davies (National Childbirth Trust Antenatal Educator Teacher and vice-chair Maternity Services Liaison Committee), and local mothers for the photographs of them and their babies.
- Jim Roberts (inequalities)
- Linda Norman, Paul Franks, Sara Lyle, Sandra White (dental)
- Val Cameron, (contributed housing section)
- David Mortimer (contributed reflections of the retiring States Analyst)
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- Jenny Cataroche (for production of most of the graphs and tables, and statistical section)
- Yvonne Kaill, Linda Osborne, Steph Charlwood, (assistance in production of the report)

I also thank all those who have contributed to public health initiatives, however broadly defined, over the past year.

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## SUMMARY

Thank you for your interest in this, the 113th Medical Officer of Health Annual Report for the Bailiwick of Guernsey. The special theme in this report is health equity. Also considered are infant feeding, dental and oral health and housing, a special report on reflections of the retiring State's Analyst, and reports on business of the directorate.

### *Health Equity*

Health equity means that everyone should have a fair opportunity to achieve their health potential. The UN declaration of Human Rights considers that Governments have an obligation to ensure everyone can achieve a standard of living adequate for health and well-being of himself and family, including food, clothing, housing, medical and social care, and social security. Underlying inequalities in health are inequalities in access to income, assets, employment, education, health and social care and social security, and civic participation. The World Health Organisation consider poverty the largest preventable cause of ill health worldwide.

Whilst Guernsey is fairly affluent and the majority of the population do have fair access to resources for health and well-being, a number studies over the last ten years or so have consistently shown that a significant minority of our population, an estimated five to ten thousand people live in poverty. Studies have also shown that local people who are less well off are much more likely to be suffering from physical and/or mental health issues. Poverty is more likely to affect families, single parents, and pensioners. Recent work on a Minimum Income Standard has shown that current social security rates are well below this minimum. Income matters for health because of the link with both material deprivation and restriction on social participation. Although, of course, the economy is a very important indicator of performance, it can also be argued that Guernsey is running at a health equity, or social justice deficit currently. The cost if this deficit is not only based on humanitarian terms, but also economic.

It is appreciated that Guernsey has performed well economically, but is currently facing significant challenges, and it is also appreciated that many people would not wish to see more public expenditure. However, children that live in poverty are much less likely to achieve their potential, and much more likely to need a wide range of services over their lifetimes than those not brought up with deprivation and the stress of poverty. As the Guernsey workforce may drop 15-20% over the next 30 years, investing in measures aimed to achieve as high a proportion as possible of children reaching their health potential is a very practical issue too. In addition poverty can be passed from generation to generation, so tackling the issue will also benefit future generations.



Unless there is an increase of wages for the lower paid, which does not seem likely currently then the only way of counteracting this situation is through redistribution of income through the taxation and benefits services. Although at first this measure may not seem likely to be popular, surveys have indicated that the majority of local people would be willing to pay more contributions to eliminate poverty.

Recommendations to improve health equity, include a new study to estimate the number of islanders whose income is below the Minimum Income Standard, a review of the taxation and benefits system with a view to providing a minimum income for healthy living for all islanders, a health impact assessment of changes in the systems, a re-designed health system to achieve affordable access to good quality medical, dental and optometric care for all, and the development of health equity measures within the States Strategic Plan.

### *Housing and Health*

One of the first roles for the MOH and the forerunners of Environmental Health Officers, Inspectors of Nuisances, was improving housing given its huge impact on health. Guernsey has nearly 26,000 dwellings of which 63% are owner occupied, 26% in private rented sector and 8% in the social rented sector. In recent years, outside of social housing little has been done to improve the existing housing stock in Guernsey. There are also significant issues with older owner-occupiers who may not be able to afford to repair their houses. There is also a large number of private rented properties with poor insulation. Given issues of affordability there is recognised to be a homeless problem.

There is no local statutory standard of fitness of housing for quality of life and no standardised inspection regime. Poor housing for children is associated with unintentional injury and asthma. Falls at home in the elderly are a major health issue and cause of injury. Homeless people have much higher risk of health problems.

Recommendations to improve health include; increased availability of social housing for the less well off; introduce policies to improve insulation and heating in houses to improve health and reduce fuel poverty; introduce a legal housing standard to improve health and reduce injuries; agree a work programme to target resources to the highest risk housing areas.

### *Infant Feeding*

Breastfeeding is an unparalleled way of providing food for infants, and has a range of other benefits such as less infections and hospital admissions, and less diabetes and obesity as the child grows up. There are also benefits to mothers who are at a lower risk of cancers, and putting on weight.



The World Health Organisation recommends exclusive breast feeding for six months. In Guernsey only 75% of mothers in 2011 initiated breast-feeding, despite the best efforts of the Baby Friendly accredited Princess Elizabeth Hospital, internationally a low percentage. We do not have valid Guernsey rates on the continuation of breast-feeding. However it is likely we are no better than the UK where only 10% of mothers breast-fed at four months, compared to 50% in Norway, putting them bottom of the international league tables.

Research has found that three key themes of “moral norms” “sexuality of the breast” and “self-esteem” are important in a mother’s choice to start breast feeding or not. Embarrassment is a key factor to younger mothers not wishing to breast-feed, particularly in public. This is not helped by the attitudes and behaviours of a small minority of the public towards mothers who breast-feed. In Guernsey less than half of mothers under 20 breast-fed. There are also practical issues such as inadequate workplace support or parental welfare provision. Breastfeeding targets are recommended for the States Strategic Plan along with a range of practical improvements such community services achieving UNICEF accreditation for breastfeeding, increase of peer or volunteer support, better workplace provision and improved maternity leave provisions.

### *Dental and Oral Health*

Diseases of the teeth and mouth are common and as well as causing pain, loss of function and social attractiveness, cause the loss of many school and work days. Dental caries or decay is an extremely common preventable disease. Key risk factors are the frequent consumption of sugary foods and drinks.

Eight surveys of Guernsey five year old children since 1984 suggests improved dental public health over the last ten years. Dental health inequalities were seen between schools, with dental health better in schools with more affluent catchment areas. However, there are some issues with the interpretation of survey data between years because of different methods. There is anecdotal evidence of a double dental health inequality for children and adults just above the threshold at which they would be eligible for social welfare, the “working poor”, so that they have the disadvantage of both inferior dental health and financial barriers to be able to access dental services they need. There is a lack of analysis for older children and adults, such that there is inadequate knowledge to plan services adequately.



Recommendations include; a dental and oral public health needs assessment; research to improve the poor knowledge of dental public health in the island, particularly in adults including those with disabilities; development of policies to allow fair access to dental treatments; development of policies for businesses that care for children and vulnerable adults; development of preventative programmes; individuals to restrict their consumption of acidic and sugary drinks, replacing them with water or milky drinks; corporate organisations to show responsibility and to market healthy products; local sports association and clubs to stop promoting acidic energy or sports drinks; the States to consider a tax on sugary drinks to reduce consumption and provide funds for prevention.

Dr Stephen Bridgman  
Medical Officer of Health, Guernsey,  
November 2012



## HEALTH EQUITY

### Health Inequity, Health Inequalities and Social Justice

*“Social injustice is killing people on a grand scale”* World Health Organisation (2008)

Underlying social injustice are key areas of inequality in the distribution of goods, opportunities and rights; income; assets, including capital, physical and land; opportunities for work and remunerated employment – the main determinant of income distribution; access to knowledge, through school, universities etc, as this enables social mobility; health services, social security and provision of a safe environment (underpinned by article 22 of the UN declaration of Human rights; civic and political participation (UN 2006).

“Inequalities in distribution are at the core of health inequalities” (UN 2006, p 17-19). However, it is generally acknowledged, that the distribution of power and how it is exercised by those who have it are at the core of the different forms and manifestations of inequality and inequity (UN 2006, p19). Internationally income-related inequalities, notably in the ownership of capital and other assets, in access to a variety of services and benefits, and in the personal security that money can buy, are growing (UN 2006).

Every society, even the laissez-faire variety, has engaged in the distribution and redistribution of income and wealth in some form, with policies generally favouring the poorest but sometimes benefiting the richest, and it is for this reason that issues of equity in living conditions remain central to the dialogue and debate on social justice (UN, 2006, p 17). Where differences in health can be avoided by reasonable action they are considered unfair, and termed “*health inequity*”. Correcting the large and remediable differences in health between and within countries, is matter of “*Social Justice*” (UN 2006, WHO 2008).

Internationally, Governments have an obligation to tackle this issue, based on human rights, as Article 25 of the Universal Declaration of Human Rights makes clear;

- 1) *Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*
- 2) *Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection* (United Nations, 2012).

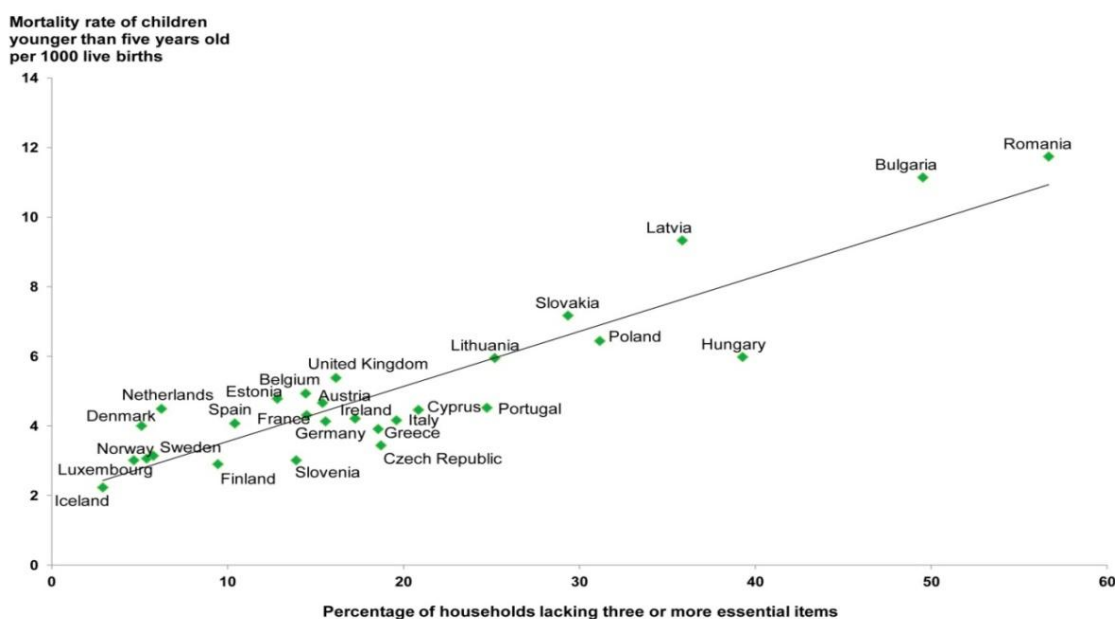




Poverty, whether defined by income, socioeconomic status, living conditions or educational level is the largest determinant of ill health (WHO 1999). It is associated with the undermining of a range of key human attributes, including health. The poor are exposed to greater personal and environmental health risks, are less well nourished, have less information and are less able to access health care; they thus have a higher risk of illness and disability. Furthermore, illness can reduce household savings, lower earning ability, reduce productivity, and lead to a diminished quality of life, thereby perpetuating or even increasing poverty (WHO 2012).

Children across the world have dramatically different life chances depending on where they are born. In Japan, Sweden and Guernsey they can expect to live more than 80 years, in some African countries less than 50 years. The poorest of the poor have high levels of illness and premature mortality. Over a billion people worldwide live in extreme poverty (World Bank 2012). The association of poverty and children's mortality rates in Europe is shown in Figure 1.

Figure 1 Mortality among children younger than five years of age and percentage of deprived households (lacking three or more essential items) in selected countries in the WHO European Region



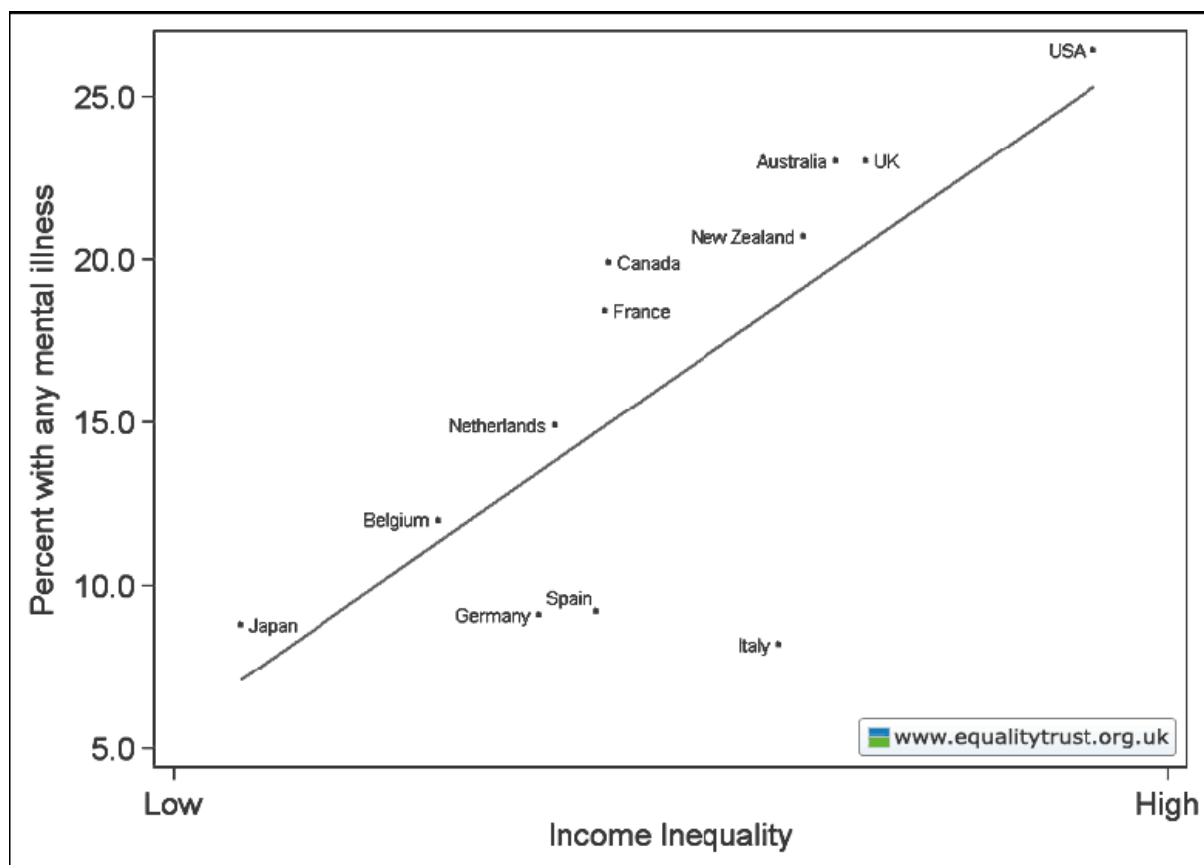
Sources: Jonathan Bradshaw and Emese Mayhew, University of York, personal communication, data from *The state of the world's children 2007* and Eurostat databases [online databases]





Health and illness follow a social gradient in countries at all levels of income: the lower the socioeconomic position, the worse the health (WHO 2008a). It is also the case that in wealthy countries, like the USA, Japan and the UK, the bigger the income inequalities the worse the health for the whole population, not just the poor (Wilkinson and Pickett 2009).

Figure 2 Relationship between income inequality and prevalence of mental illness in developed countries (The Equality Trust)



In the UK the health inequalities have been widening along with income inequalities in the last twenty years, such that they are now the widest they have been since 1921 (Thomas et al 2010). For every 100 people under the age of 65 who died in the wealthiest tenth of districts, 199 died in the poorest tenth (Thomas et al 2010).



The poor health of the poor and the social gradients within countries are caused by the unequal distribution of power, income, goods and services. This leads to visible differences in people's lives, their access to health care, schools and education, their conditions of work and leisure, their homes, and their communities. This unequal distribution of health is not a "natural" phenomenon but the result of a combination of poor social policies and programmes, unfair economic arrangements, and bad politics (WHO 2008a).

All people need social protection across their life courses, as children, in working life and in old age. Protection is also needed when people are subject to a sudden negative life event such as loss of income or work, illness or disability. Low living standards have a major effect on the early years of childhood, and poverty is frequently transmitted from generation to generation. Worldwide, many people lack basic social security coverage (ILO 2003). There is also no doubt that differences in health within countries can change quickly with changes in policy, for instance adult mortality rose in the Russian Federation following changes in 1992 (WHO 1999).

Priority therefore needs to be given to improving health and reducing health inequities. Achieving these goals requires definitive action in the social determinants of health. It is a major public policy challenge. Necessary action is needed across the life course and in wider social and economic spheres, to protect present and future generations (Marmot et al 2012).

Health and social problems like violence, mental illness and education failure are all more common among the poor than the rich. In poor countries with widespread extreme poverty higher incomes and living standards will lift some people out of these problems. However, among rich countries, such as Guernsey, health and social problems are only weakly related to national average income. Countries inevitably reach a level of affluence where diminishing returns set in and additional income buys less and less additional health. More unequal societies have a higher prevalence of preventable problems that apply to the whole population (Wilkinson and Pickett 2009).

In Victorian times action was taken about the appallingly high death rates from cholera in cities, at least partly because of self-interest, when it was clear that not only poor people but the wealthy were dying. Today, the parallel is income inequalities. The more unequal the society is does not just affect the health and well-being of the poor, but all of us. More equal societies have better health throughout different social strata (Wilkinson and Pickett 2009). Social cohesion and trust are also protective of inequalities (WHO 2009). Social cohesion requires the reduction in the pursuit of status, and the valuing of every member of our society.



It is also the case that “*The State*” is no longer the main actor on the international scene, and its relevance will continue to diminish as the process of globalization gains momentum. Trans-national actors—mainly corporations and banks but also international organizations and social and religious institutions and movements—are playing an increasingly important role. Modern information and communication technologies (ICT) ignore borders and national sovereignty. National policies, including those aimed at addressing inequalities that contribute to poverty and other social ills, are routinely bypassed and overridden by the decisions of global institutions regulating international finance and trade (UN,2006 p23). The worst problems of inequality and inequity exist within societies. However, social injustice, inequalities and inequities within societies can be more immediately and effectively addressed by a wide range of policies and decisions at the local and national levels that might, for example, bring about changes in tax systems and in the institutions delivering public services. (UN 2006 p24). Tackling these issues at an international level through a world government is not currently on the agenda.

Although relatively affluent, there is substantial evidence that Guernsey has significant health inequities and health inequalities. The rest of this section, considers some of this evidence, and then considers how we can build on the substantial good work to date to reduce inequities and improve health and well-being in the Islands.

### **Local Evidence on Health Inequities**

#### **Townsend Centre for International Poverty Research Studies (Gordon et al 2001/2).**

The Townsend Centre undertook a *Survey of Guernsey Living Standards* (Gordon et al 2001/2I). They produced a series of four reports; the Necessities of Life; Views of the People; Poverty and Standard of Living in Guernsey; Anti-Poverty Policies for Guernsey. Although now just over ten years old they give a powerful insight into poverty on the islands that is still relevant today.

The groups identified by the Townsend Centre as being most vulnerable to relative poverty are still recognised in the States Strategic Plan (States of Guernsey (SoG) 2011, p1954).

There are many different ways of measuring poverty (Gordon et al 2002). The Guernsey study, based on UK studies, adopted a definition of poverty based on a standard of living unacceptable to the majority of the population. The validity of the approach rests on a cohesive view of what is unacceptable amongst different groups in society.



The primary meaning of need is “deprivation”. Townsend distinguishes sub-categories of *material* deprivation, food, health, clothing, housing, household facilities, environment and work, and of *social* deprivation related to family activities, social support and integration, recreational and educational (Townsend 1993).

Questions in the Guernsey survey were based on the Poverty and Social Exclusion Survey of England, with a few additional items and activities and questions modified taking into account the specific living conditions in Guernsey, in particular for the elderly.

There was a great deal of support from islanders to improve the quality of life for the less well off. Housing came out as the most important category, with costs and poor quality being key issues. Improved provision of free or cheap public transport and healthcare were also the other top single issues. The idea of raising incomes for the less well off, through higher pensions and benefits, better paid jobs and lower income tax were also suggested.

### Poverty and Standard of Living

People were defined as being in poverty or poor, when they had both a low standard of living and a low income. A low standard of living was defined as not having at least four of the necessities of living as defined in phase 1 of the study, in which 50% of residents considered people should be able to afford and not do without.

Over 60% of lone parents and over 40% of single pensioners were in poverty. Of States renters over 50% were in poverty, compared to 25% of private renters and 6% of owner occupiers. In summary, people living in poverty go without a whole range of items because of a shortage of money. Subjectively 5% of the population considered they live in poverty all the time, and 16% some of the time.

### Housing and Health

Six per-cent of respondents said the health of someone in their household was made worse by poor housing, ranging from 12% of those aged 16 to 29, to 9% of over 65s. Given the high rates of housing problems in Guernsey, especially damp, it was concluded that poor housing was affecting population health. The Guernsey figures, confirm extensive scientific evidence that poor housing significantly affects health (see section of report on housing and health).

### Health and Poverty

The association of poverty and health were very marked. There was a linear trend between rising income and better health. For the great majority of health measures those who were poor fared significantly worse than those who were not poor.



When controlling for age, sex, household type, level of education and place of birth, the poor in Guernsey were found to be four times as likely to be ill than the rest of the population. Poorer people were over fifteen times as likely to report societal isolation or depression during the last year because of a lack of money than better off people.

The research showed a minority of people with such low incomes that their standard of living is below the minimum acceptable to the majority of islanders. Over 3,000 Guernsey households (16%) are estimated to be poor, with a low income and suffering from multiple deprivation that is 4 or more necessities of life which the majority of islanders think they should be able to afford. Of different groups, 63% of lone parents, 43% of single pensioners and 26% of large households with children were suffering from poverty.

### Local Services and Poverty

Collective exclusion is defined as when services were not available, and individual exclusion when services were priced out of individual reach. Collective exclusion affected about 30% and individual exclusion about 14%. None of the respondents said they could not afford the doctor or chemist, but 6% could not afford to use the dentist. Five percent of respondents said they had collective exclusion from doctors.

Poor people were also found to have less social support, and had some difficulties when paying to use public sports and cultural facilities and the dentists.

### Health Services

Six percent of people said they did not always have enough money to visit their family doctor and pay for medicine prescription charges when sick, and 9% did not have enough money to buy glasses, hearing aids or other medical aids. Several factors sustaining the association between poverty and poor health were:

- Difficulty in obtaining (and keeping) good quality, affordable housing for those on low incomes;
- Lack of affordable childcare for lone parent families on low incomes;
- Lack of suitable accommodation for the disabled;
- High cost of living on the island making eating a well-balanced healthy diet difficult for low income families;



- On-going costs of healthcare for people with long-term medical conditions who do not receive supplementary benefit and who are in the low income bracket, many of whom are excluded from private healthcare insurance schemes by nature of their health condition.

One-sixth of young people aged 16-24 could not afford to visit a doctor and pay for medical prescription charges when sick, or to buy glasses, compared to 6% of the population as a whole. Young people were more likely to experience isolation and depression as a result of lack of money than all other age groups.

### Perceptions of Poverty

The scientific measurement of relative poverty found that 16% of the population were poor. Seven percent of households said their incomes were inadequate to avoid absolute poverty and 12% general poverty. Many more people thought poverty would increase over the next ten years rather than decrease. Two-thirds of islanders thought poverty was caused by inevitable changes in society, injustice or bad luck.

Pensioners made up a third of poor islanders.

### Suggested policy changes

Two main strategies were suggested to reduce the health-related costs of sick or disabled people. Instead of a small universal grant towards the cost of seeing the doctor which for many people had become meaningless, a much larger grant was suggested for those with chronic illness, consultations solely for a repeat prescription, and pre-school consultations.

The report points out that the UN Convention on the Rights of the Child commits signatories to provide the highest attainable standard of healthcare for children up to the age of 18, including full access to healthcare services (Article 21). This was considered to be best achieved through universal free healthcare provision funded through progressive taxation (“universal clawback”).

Greater regulation of the rental sector was considered, to counteract the lack of legally enforceable accommodation standards.

One of the findings that was perhaps one of the easier to address was the prevalence of poverty among single pensioners compared with pensioner couples. For a number of years following the Townsend Report, the States approved higher increases in pension rates for single pensioners than for pensioner couples.

Two-thirds of people supported a tax increase to end poverty.



## Housing Need/Household Expenditure Survey

Opinion Research Services (ORS) undertook housing needs surveys in 2006 and 2011, with samples of about 1,500 Guernsey households interviewed and response rates of about 70%. (ORS 2007 and ORS 2011). Whilst the majority of households (over 95% in both surveys) were satisfied with their homes, there were some issues with the condition of Guernsey homes. ORS reported that, in 2006, 19% of private rented houses and 17% of social houses suffered from penetrating damp, contributing to a total across all Guernsey households of 10%.

In 2011, ORS reported that 12% of houses had damp penetration, with serious damp reported in 4%. ORS also reported that 6% of houses had condensation (black mould) that was a problem, and this was three times more likely in both social and private rented housing as in owner occupier housing. Damp and mouldy homes double the population risk of asthma in children (Marmot et al 2012).

In 2006, the survey showed that it was social tenants and those on the lowest incomes who were most likely to be having difficulties with their housing costs. By 2011, the proportion of all households who reported problems affording their rent or mortgage had risen to 16%. While households on the lowest incomes and social housing households still had the most difficulty in meeting these costs, the position of private renters had worsened most rapidly so that they were as likely as social housing tenants to report problems. In 2011, 20% of households were currently living in unsuitable housing, which means “anyone with a housing issue”, for instance good quality accommodation but too small.

In 2011, households on low incomes were four to five times more likely to contain someone with a long-term health problem than those on higher incomes (ORS 2011). They were also five times more likely to have housing costs causing a strain or extreme difficulty, with around 30% of those on less than £10k having a problem. Five percent of households were in technically overcrowded accommodation, although only half of these thought it was a problem, and around 20% of the population had problems with fuel bills. Five percent of households had a single parent with dependent child(ren). Current accommodation was not felt to meet the needs of at least one household member in 3% of households. Neither survey sought to elicit anyone who considered their health was negatively affected by their housing.

The results of the 2005/06 Household Expenditure Survey indicated that 17% of respondents, and 18% of children, lived in households with an income below 60% of median income, which is the European standard indicator of relative poverty (SoG 2011b, 2012d). Eight percent of households lived below 40% of median income. The median income in 2006 was £23660 (SoG 2011d).





### Health Inequalities in Guernsey from a Health Promotion perspective

Spencer (2010) undertook a qualitative study of health inequality concerns among local professionals. It was concluded that Guernsey does have significant areas of inequality that can be improved.

A summary of these health inequality concerns are as follows:

- The high cost of GP appointments;
- Shortage of social housing accommodation; Inappropriate and sub-standard private housing;
- Insufficient health and social support for adults with learning disabilities;
- Lack of free early intervention support for people with mental health illnesses;
- Inadequate community and housing support for people with mental health illnesses;
- Financial concerns for those just above the threshold for Social Security support;
- Social and housing concerns for older people;
- Language and communication barriers for people who do not have English as their first language; and
- Concerns for families who do not register with a GP or health visitor when coming to live in Guernsey.

Since Spencer's report but not because of it, Social Security have funded HSSD to deliver primary care mental health services that has been shown to be very successful at meeting a previously unmet need. In addition work is ongoing to address housing concerns for older people, in addition to initiatives in other areas. There is also an important mental health strategy being developed within the framework of the States 2020 vision of the future of the health and social care system (SoG 2011c).





### Guernsey Minimum Income Standards Study

The Guernsey Minimum Income Study is a very important measure of income adequacy. It was carried out by Loughborough University in 2011 (Smith et al 2011).

Minimum income is the amount of income that people need to reach a minimum, socially acceptable standard of living, based on what the local public think, and taking into account expert evidence such as on nutrition and home energy consumption. It is calculated by specifying baskets of goods and services required by different types of households to meet those needs and to participate in society. A minimum standard is more than just clothes, food and shelter. It is about having what is needed to have the opportunities and choices necessary to participate in society. It is of interest to note that the local public considered medical insurance essential for all households.

This study showed that a single pensioner required £356 per week, and a family with two children approaching a £1,000 a week as a minimum income. These figures are based on social housing, and for islanders renting in the private sector costs would greatly exceed this. These figures are at least 20-40% higher than UK figures, and reflect the high cost of living in Guernsey.

This study is important as it gives some scientific evidence on income needs for islanders. The work has been used for recent proposals to reduce income poverty through the welfare system (SoG, 2012, p 1023).

### Mental Health and Well-Being Survey

A survey was carried of mental health and well-being of adult islanders (Johnson et al 2011). Measures used were the validated Warwick and Edinburgh Mental Well-being Scale (WEMWBS), and the Hospital Anxiety and Depression Scale (HADS).

“Of note was the association between being unemployed, having a low income and Low Mental Wellbeing. Overall, 53% of the unemployed group versus 18% of those in work were classified as having Low Mental Wellbeing. This equates to three times greater risk of low mental well-being for those who are unemployed. It is not possible to infer the direction of causation. In other words it may be that the unemployed are out of work because of their low mental wellbeing, or, alternatively, it could be that low mental wellbeing developed as a consequence of being unemployed. No person in the lowest income group was classified as having High Mental Wellbeing.” (Johnson et al 2011)



The association of lower mental wellbeing with unemployment and low income recorded by the WEMWBS was replicated in results from the HADS. 21% of the unemployed group reported experiencing anxiety and depression, whereas the same could be said for only 5% of the people who were in work (a risk ratio of 4:1) and the lowest income group reported the greatest incidence of self-reported anxiety and depression symptoms (18%).

## Summary

Despite Guernsey's relative wealth, there is substantial evidence for a significant level of poverty and social injustice affecting a minority of the local population. This poverty and social injustice will not only have a significant negative effect on the health of the islands, there will be a very significant negative economic impact too.

## *A Suggested New Approach to Improving Health and Health Equity*

Every aspect of the government and the economy has the potential to affect the determinants of health and health equity, including finance, education, housing, employment, transport, health and social services, culture and leisure (WHO 2006). The breadth of the social determinants of health are indicated in Figure 3. It could be argued that the Treasury and Resources Department has more influence and impact on health and health equity than the Health and Social Services Department. Health and health equity may not be the aim of all societal policies but they will be a result of them.

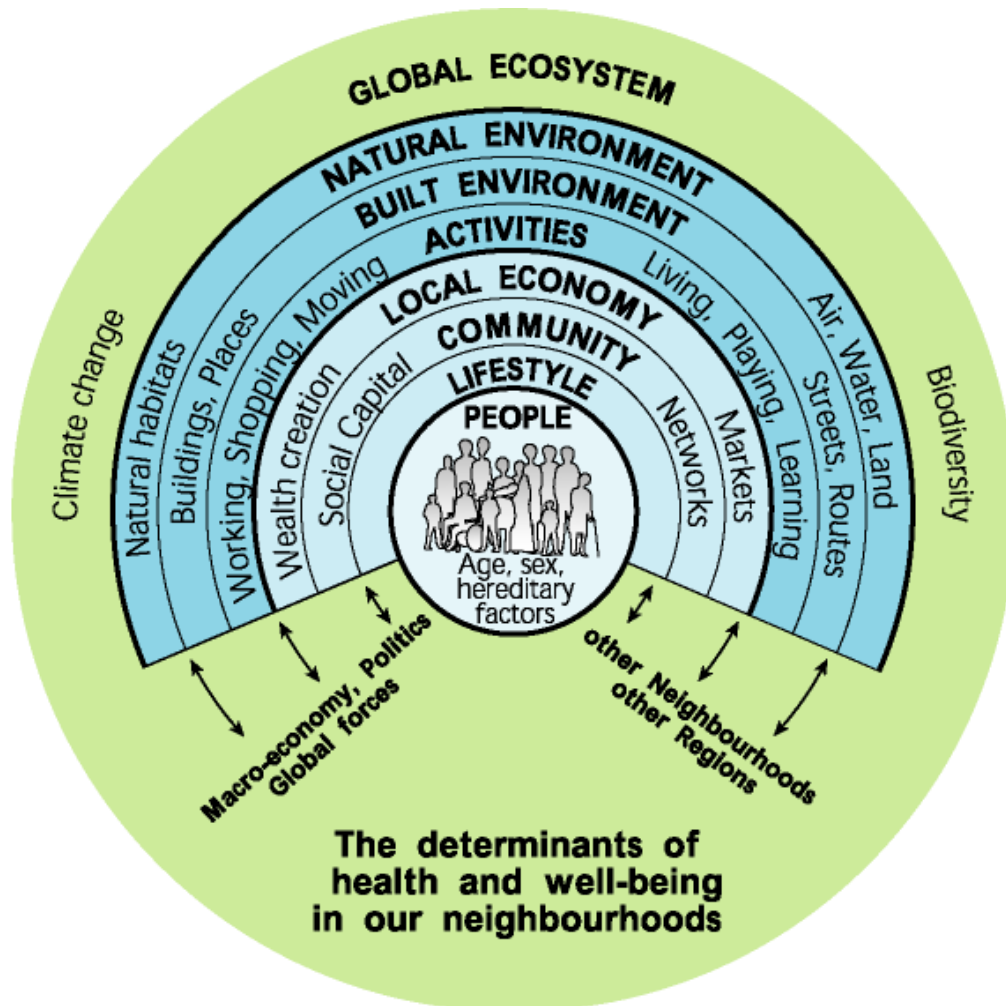
The Department of Health and Social Services, its Minister and Board are crucial in championing the social determinants of health approach at the highest level of society, demonstrating good practices and supporting other Departments in creating policies that promote health equity. Action on the social determinants of health must involve the whole of government, civil society, local communities, business, and international agencies.

Policy coherence is crucial. This means that different departments' policies complement rather than contradict each other in relation to the production of health and health equity. For instance current trade policies give duty free incentives for the public to purchase cut-price tobacco and alcohol products.

Another example of the crucial importance of other States Departments is the role of the Environment Department with its control of the planning and delivery of the key social determinants of spatial planning and transport, and the Education Department given the strong association between educational attainment and health (Rydin et al 2012).



Figure 3 The Health and Wellbeing Map showing the relationship between health and the physical/social/economic environment with people at the heart of the map (after Barton and Grant, 2006)



**Recommendation 1:** Health and health equity is explicitly considered in all key Government Policies and Programmes.

In the States of Guernsey Strategic Plan (2011-16, p1903) the importance of social issues is recognised through several broad objectives to tackle social problems, including specifically; promote, and remove barriers to equality, social inclusion and social justice; meet welfare needs and reduce poverty; improve housing availability, quality and affordability; maintain a healthy society and safeguard vulnerable people. However, the social issues behind these objectives remain very significant, and will require clear, concerted, and evidence-based action to successfully address.

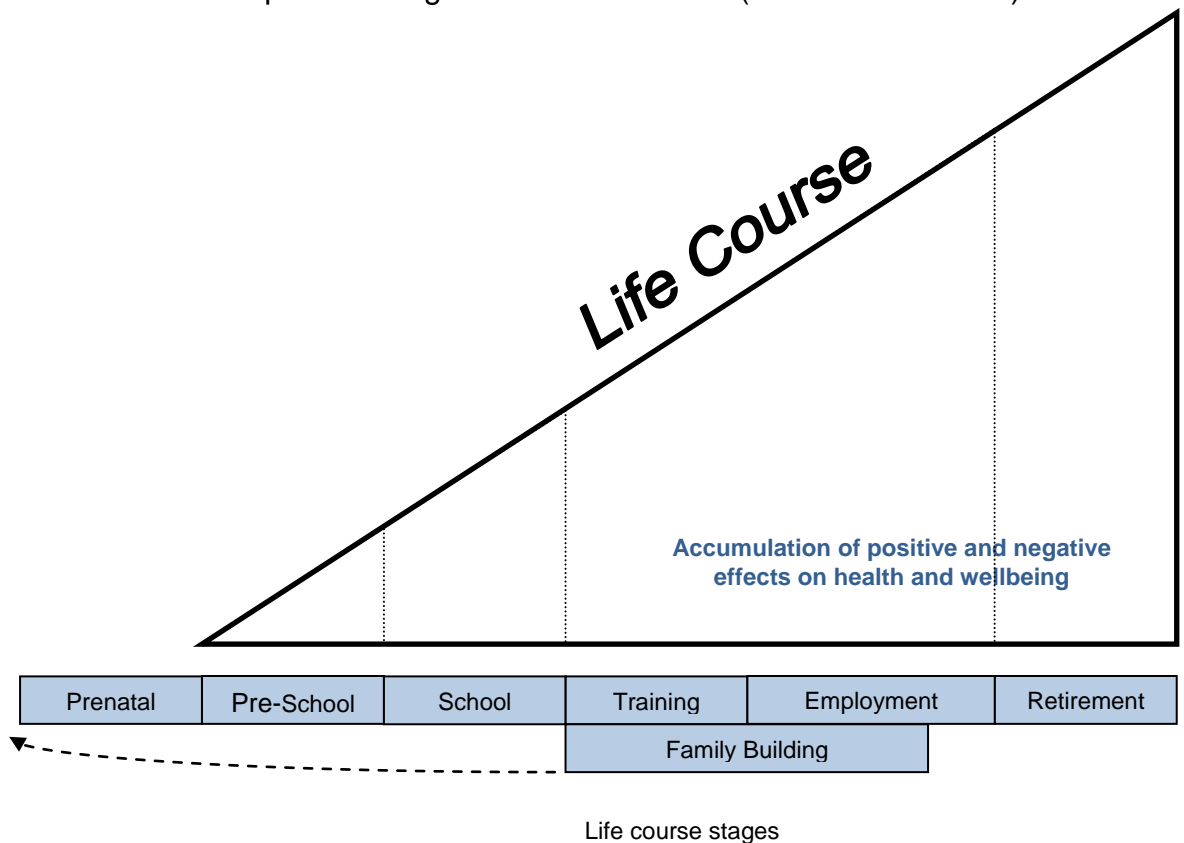


Making the progress society wishes will not be easy, for instance over a decades work to reduce health inequalities in England, while probably helping to improve general health of all, has proved to be unsuccessful in reducing inequalities (Thomas et al 2012). The World Health Organisation Commission on the Social Determinants of Health, has also brought the reduction of avoidable health inequalities between social groups to the centre of the political stage (WHO 2008a, Hunter & Wilson 2012). The commission had three key recommendations, or areas of action, to reduce health inequity;

- To improve daily living conditions
- To tackle the inequitable distribution of power, money and resources
- To measure and understand the problem

It is important to adopt a life course approach to policies, in order to prevent future disease. Interventions should start at an early age, and continue throughout the life of a child because what happens in early childhood has a huge impact throughout life (Figure 4), and further into the next generations.

Figure 4 Action is required throughout our life courses (after Marmot 2010)





### ***Brief consideration of Guernsey with a United Nations Framework for Social Justice***

For the next section of the report, the first two WHO areas of actions will be briefly considered using a framework in a United Nations publication. Given the complex array of policies, this section is illustrative of some key issues, not a comprehensive review of them. Six key areas of inequality in the distribution of goods, opportunities and rights, that underpin social injustice and health inequity (UN 2006) are;

- i. Income;
- ii. Assets, including capital, physical and land;
- iii. Opportunities for work and remunerated employment – the main determinant of income distribution;
- iv. Access to knowledge, through school, universities etc, as this enables social mobility;
- v. Health services, social security and provision of a safe environment (underpinned by article 22 of the UN declaration of Human Rights);
- vi. Civic and political participation.

#### **i. Income**

Having enough money to lead a healthy life is central to reducing health inequalities. Income matters for health because of the link with both material deprivation, and restriction on social participation and opportunity to exercise control over one's life. Above a threshold of material deprivation, income may be more important because of its link with these social factors related to social conditions. A policy of not redressing income inequalities through the tax and benefit system, linked to lack of investment in public goods that brings the benefits of richer communities to all, will damage health (Marmot 2002).

Currently, Guernsey does not have figures on income inequality either between Guernsey and other jurisdictions or within Guernsey, although work is underway to consider these (A Sloan, States Economist, personal communication). Of course, it is not just income, but the cost of goods and services that determine what that income can buy. We know that in Guernsey the cost of living is much higher than the average in the UK (Smith & Davis 2011).



The Townsend Centre studies referred to above showed that a decade ago there was significant inequalities in income in Guernsey, with an estimated five to ten thousand islanders earning or receiving insufficient income to meet needs considered essential by the majority of islanders (Gordon et al 2001/2).

The Minimum Income Study for Guernsey defined the minimum income standards of individuals or families to be fully included in social life, although recognising it probably underestimated income that was required (Smith & Davis 2011). There is currently no analysis of how many islanders have an income below minimum standards.

**Recommendation: 2** Further research is undertaken to estimate the number of islanders below Minimum Income Standards

The basic strategies for greater income equality are either;

- i. using taxes and benefits to redistribute very unequal incomes,
- ii. or by greater equality in gross incomes before taxes and benefits, which leave less need for redistribution

Most Western States, including Guernsey, use taxes and benefits to improve income equality, while Japan, which is a relatively low tax jurisdiction, has much fairer gross incomes (Wilkinson and Pickett 2009).

Guernsey implemented a statutory minimum wage in 2009 based on the fundamental principle that it is unacceptable in the current social and economic climate in Guernsey for employees and workers to be paid low wages to the point of exploitation (States of Guernsey 2012b). The Minimum Wage is not intended to reflect a 'living wage,' as there are a number of social policy initiatives administered by the States through Social Security, Housing, and Income Tax, which provide a wide range of benefits, grants, social housing, housing rent rebates, and tax arrangements to help those on low incomes. It was noted that the island does not have a definitive set of pay rates. Consideration was given to the impact of the policy on vulnerable businesses. The health impact and health equity impact of this policy on vulnerable people was not examined. There has been some concern that some employers have dropped starting salaries down to the minimum rate, thereby potentially making poverty worse.



### *Using Taxes and Benefits to Increase Income*

The system and subject of benefits is highly complex. The following section looks at supplementary and housing benefit.

- **Cost of Living Benefit: Supplementary Benefit**

Given the recognition that the minimum wage in Guernsey is not a “Living Wage”, it is of significant concern to the health of islanders, that proposals in early 2012 to introduce improved supplementary benefits for those on low incomes were not supported, even though they were still below the Minimum Income Standards.

The amended legislation would have entitled all people with income below a given level to claim income support, but would place work-focused obligations on all working-age people receiving support, including the dependants of primary claimants, unless by exception (SoG 2012).

It has also been shown that supplementary benefit claimants, no matter how great their need or how low their income, could receive a maximum income (apart from family allowance and any earnings disregard) of only £450 per week, if that income included any amount of supplementary benefit at all.

This has a particularly severe impact on larger families (including two and three child families in which the children are teenagers) because these families have a higher total requirement rate and are also likely to be paying more rent, in order to find accommodation of a suitable size (SoG, p1009). The figure of £450 a week is well under the minimum income standard for Guernsey.

The modernisation of the supplementary benefit system aimed to reduce the proportion of people living on less than the minimum income standard (SoG p 1047), and to reduce relative poverty is possibly the most important intervention currently proposed to improve health and well-being on the islands. The potential health and well-being impact of the intervention has yet to be systematically assessed. In particular, breaking the cycle of poverty in the lives of infants and children can lead to substantial health and economic gains for present and future generations (WHO 1999, 2008, Marmot 2010). Given the predicted reduction in workforce over the next few decades, there is both an economic and practical imperative for Guernsey to eliminate poverty and enable all to reach their health potential.





- Housing Benefits

Because of the very high cost of housing on the islands, rent related poverty is a real issue for many tenants in the private sector and for those tenants with large families on low income living in social housing (SoG p1007). Currently, existing schemes do not give any degree of assurance that the basic needs of a person will be met after they have paid their accommodation costs. This impression is backed up by the observations of community nurses.

Although families living in social housing cannot be considered well-off in any way, comparable families in private rented accommodation – families with the same number of dependent children, and the same initial level of income – are substantially worse off. (SoG, 2012, p1008)

The purpose of social housing is to permit single people and families who could not afford to rent privately to live in affordable, good quality accommodation. For elderly and disabled people in particular, it provides accommodation of a standard which allows them to maintain a good quality of life, good health, and freedom of movement and independence within their own home. (SoG, 2012, p1005).

One important issue raised in a joint report by the Social Security and Housing Departments is a fundamental injustice within Guernsey's current systems of welfare provision: that low income families living in private rented accommodation are almost always worse off than their counterparts in social housing, even if both families are claiming supplementary benefit. Social housing tenants benefit from the rent rebate scheme, which has no equivalent in the private rented sector. (SoG, p1005). Social housing tenants are among those with the lowest incomes in the community and a majority of tenants would still struggle to pay the ordinary rent (the standard weekly rent) for their property. In order to mitigate this, the Housing Department operates a rent rebate scheme. (SoG 2012).

No social housing tenant spends more than 25%, of their income on rent, and some will pay significantly less. About 90% of tenants received a rent rebate. Proposals for change argue that there are two key principles at stake. The first is a matter of simple equality – ensuring that means-tested welfare provision evaluates the needs of all islanders equally, and meets those needs in an equal measure. The second is a matter of social justice – examining whether the level of benefit support currently provided by the welfare system is sufficient. Therefore a single housing-related benefit has been proposed (SoG 2012,p1008).

The health impact of these proposed changes has not been assessed. However, ensuring all residents have enough income to lead a health life is highly likely to have a substantial health impact, and reduce health care costs.





- **Income Tax**

Income tax is levied on income levels that are below those of the Minimum Income Standards (States of Guernsey 2012c, Smith & Davis 2011). This is likely to be increasing poverty and therefore health inequalities. In the UK it has been observed that the household quintile with the lowest income has the highest tax as a percentage of gross income (Marmot 2010, Fig 4.3).

Income tax changes are not subject to a systematic assessment of their health impact.

- **Coherence and Impact of Policies**

The lack of support for proposals to improve the unfair standard of living experienced by some residents, will have a social, human and ultimately financial cost in meeting the consequences of poverty. There needs to be increased coherence of policies, in the assessment of the health impact of these decisions, and the economic impact of the inevitable health and well-being deficits that will arise.

The case to reduce income inequalities and poverty is not just a humane objective, but an economic one.

<b>Recommendation 3:</b>	Review and implement system of taxation, benefits, pensions and tax credits to provide a minimum income for healthy living.
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<b>Recommendation 4:</b>	Health impact assessment of the modernisation of the welfare system is carried out, looking at the effect on health, well-being and the economy of reduced poverty levels.
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<b>Recommendation 5:</b>	Income tax changes should be subject to at least an assessment of their likely health and well-being, and health equity impact.
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## ii. Inequalities in assets, including capital, physical and land

- *Housing*

As private rental accommodation and house ownership are both expensive on the Island, the demands on the social housing stock are great (Spencer 2010). The stress caused by inadequate or inappropriate housing is a significant contributing factor in health inequalities, and people of all ages can be affected, from babies to older adults (Spencer 2010).

The States aim to maintain and improve the quality of housing in Guernsey across all sectors bearing in mind the impact of housing conditions on the health and well-being of the community (SoG 2011).

The cost of housing is a major issue, and associated with the very high likely costs of housing is rent-related poverty. The “free market” in housing is a concern, given the ability of individuals or organisations to buy private housing and speculate on the capital value, and drive up rental values. In Guernsey this speculation is “tax-free” income, as it is considered capital gains.

The health affects of housing are considered in more detail elsewhere.

- *Access to Green Spaces*

Green spaces are associated with lower all cause mortality and cardiovascular deaths (Mitchell 2008).

Health visitors and school nurses are concerned about the quality and appropriateness of housing for poorer Islanders, reporting that many women with young children are housed in multi-occupancy flats without an outdoor space (Spencer 2010). Green spaces also provide the opportunity to improve mental and health well-being, including the development of social networks and relationships, all of which are associated with lower mortality and improved well-being (Luria and Lyons 2010). A number of studies have also indicated that outdoor play helps children’s intellectual and social development (Luria and Lyons 2010).



### **iii. Opportunities for work and remunerated employment – the main determinant of income distribution**

The level of unemployment in Guernsey remains low compared to other jurisdictions. Figures released at the end of September 2012 by the Social Security Department recorded that there were 349 people registered as unemployed and available for work, which represents 1.1% of the working population. In Alderney 11 people, were unemployed (M Nutley, Social Security Department, personal communication).

Guernsey's government and civil society can take great credit over the years in keeping unemployment low, a major issue in many Western Societies.

High employment is good of course, not only for the health of the population but for the financial balance sheet.

A dilemma is the level of remuneration, which for some people on full time work, and in particular for families is below that required to avoid poverty, as discussed above.

### **iv. Access to knowledge, through school, universities etc, as this enables social mobility**

Health is positively associated with level of educational attainment

Guernsey has a free at the point of delivery universal primary and secondary education service, and subsidised means tested support for further education. This enables some social mobility. There remain, however, some key areas for improvement to reduce educational and therefore health inequalities.

A good early year's home learning environment with parents interested in their children's education and reading with their children is vital. The need for improved parenting programmes was noted in the 112<sup>th</sup> MOH report. This area will be considered within an amended Children and Young People's Plan.

Research clearly shows that good-quality early education does benefit children in the long term, particularly the most disadvantaged. The Effective Provision of Pre-School Education (EPPE) project, for instance, has shown that high-quality, pre-school provision enhances children's all round cognitive, language and social development (Department of Education 2012).



The Millennium Cohort Study found that at the age of 5 children from the most advantaged groups were found to be over a year ahead in vocabulary, compared to those from disadvantaged backgrounds.

Ensuring access for all children to good quality pre-school education will reduce health inequalities and improve health inequity. The Education Department are actively considering very important proposals in these areas.

Selection at age 11 has been a controversial subject in Guernsey. Mulkerrin (2011) on his review of Education Services in Guernsey wrote:

*The downside of the Guernsey selective system is that it is too easy to create “winners” and “losers” in terms of the schools the children go to. The problem is if people feel they are losers, some will start acting as losers. Long term, this simply reinforces social exclusion in the island. Selection also creates divisions between children who have been to the same primary school and disrupts friendships that have been built up over years.*

Selection at age 11 was originally introduced into the UK in Victorian times and the driver was newly provided State funded secondary education that was not universal, so that some selection was required to allocate children to the limited places. Guernsey was cited along with London, German and USA cities as a place at the cutting edge of educational research at this time.

Locally it was driven by Lieutenant-Adjuvant Charles Spearman who was billeted to the island in the Boer War. Spearman later became the first Professor of Psychology in the UK. Once secondary education became universal, the policy driver for selection within the States education system became redundant. Further local research is needed on actual local benefits and harms of selection as part of the review of selection at age 11.

Also important for health equity and social mobility is the Skills Strategy which is about preparing young people for employment as well as developing skills for adults whether in or out of employment. This will enable people to improve and adapt their skills, and thereby enhance their job prospects and income.

#### **v. Health services, social security and provision of a safe environment (underpinned by article 22 of the UN declaration of Human rights)**

- *Social Security*

Guernsey has a very significant Social Welfare provision, for instance through Social Insurance Benefits, Health Insurance Benefits, Long-term Care Insurance, Supplementary Benefit and rent rebates for social housing. There is no doubt that this help has a huge impact on many local people's lives.



Despite these progressive social policies, from local studies carried out by the Townsend Centre a decade ago, and from data within the States Strategic Monitoring Report (2012d), it can be estimated that five to ten thousand people are in poverty. It is unknown whether this number has increased or decreased since then. Given the progress in the last decade some commentators have concluded that poverty is not a priority for the States of Guernsey (Guernsey Press 2012a). The reason why countries such as Sweden, Finland and Norway score well on the UNICEF index of child wellbeing is that their welfare systems have kept rates of relative poverty low among families (Wilkinson & Pickett 2009).

Arguably poverty is the most important issue to be tackled to improve the average health and well-being on the islands, and although requiring investment there will be an economic return on investment in problems prevented that the taxpayer would otherwise have needed to fund the mitigation or treatment of. Given the likely size of the poverty issue on the islands, it can also be argued that Guernsey is running at a social justice deficit.

- *Health Services*

Comprehensive secondary healthcare is paid for through compulsory social insurance collected by the Social Security Department. This leaves some local families who are not covered. The 108th Annual MOH Report stated: “According to 1996 Guernsey Census, only 49% of people had private health insurance, and it was estimated that some 20% of the population risked severe financial difficulties from medical costs alone.” There is not a recent survey of the proportion of the population with health insurance.

Local studies have shown that people immediately above the social security threshold for receiving supplementary or medical benefits may not be able to or decide because of other social priorities not to access primary medical, dental, or optometric care because of expenses. (Gordon et al 2002, Spencer 2010). The system also leads to perverse incentives of people tending to only seek help when they are unwell “sickness” services instead of for preventative reason. Lack of access for some people to primary care may lead to increased costs for individuals and the States when these people fall ill because of problems that could otherwise have been prevented.

Currently the monopoly of primary care providers is being considered by the Guernsey Competition and Regulatory Authority, and could lead to reduced costs and better access, but this is unlikely to solve the problem of funding care for people just above the social welfare level. Later in this report, some of the problems around basic dental care are discussed, and there are also issues about access to optometry.



HSSD are currently leading a review of the whole health care system as part of the 2020 Vision (SoG 2011c). There is a unique opportunity for this work to enable Guernsey to be one of the leading island health and social care systems in the world.

The current significant budget reductions in and health and social services as part of the Financial Transformation Programme (see front cover) are likely to have a some negative impact on less affluent members of our society in particular.

**Recommendation 6:** The new health system needs to achieve affordable access to good quality preventative, medical, dental and optometric primary care for all.

## vi. Civic and political participation

### *Legal Representation*

Access to justice has been recognised in many countries action plans on poverty and social inclusion (EU 2004). The high costs of legal advice on the island means it is highly likely to be an issue. There is a legal aid system which is subject to a means and merit test. There is a sliding scale of contributions, but the financial cut off level means that some people on a relatively low wage, but who are financially ineligible or assessed to be on a contributions to their aid may struggle to get access to legal assistance. This may be a problem for both criminal and civil cases.

Legal Aid is not available in money claim cases in the Petty Debts Court where there is a maximum limit of £10,000. This means that people have to either pay an Advocate or represent themselves in such, which may be a significant problem for e.g. a tenant who is in dispute with a landlord or someone with other debt problems. Legal Aid may be available for eviction proceedings. The other barrier is there are limited alternatives to litigation. However there is some family mediation offered by the Safeguarder Services and free advice from the Citizens Advice Bureau.

People on supplementary benefit get a “free passport” to legal aid if the case merits it, so again there are particular problems for people just above the benefit threshold. Further work is needed to define barriers on access to justice.

The relatively high cost of professional legal fees will be a barrier for justice for some people.



### *Community Engagement*

In improving social systems, the evidence is clear that the best outcomes are obtained if people who are the target of improvements are engaged in designing the solutions, rather than solutions being foisted on them with little involvement. An example of one city which had both success and failure in this regards was Liverpool. The Eldonian village was developed in a deprived area, and when people refused to be relocated the local authority worked with local people to design a range of housing that enabled them to live in the same areas and maintain their social networks throughout their life-courses, from childhood to old age. Other people were relocated to social housing when they were not involved in the design, and some of this was knocked down as unsuitable before it was paid for.

### *Community Culture in Social Justice*

- *Paying for Reduction of Health Inequalities*

In making this happen the views of all of us and the work of the Treasury and Resources Department are incredibly important. It is understandable that politicians and the public would wish low taxes and the most efficient and effective public services possible. However, finance itself is only a means to an end, and there are consequences and potential long-term costs to reductions in services of welfare support, through for instance reduced health.

In terms of well-being, if one is hungry then a meal of bread can make a massive difference to well-being. Having two, three, four, or five loafs all at once makes little difference to that individual in terms of their well-being. However, if there are five people hungry and one person takes all the bread, then the well-being gain will only be a fifth what it might have been. Would it not be fairer to take a little more from the wealthier so that everyone can participate in society and achieve their health potential? There is some evidence that the majority of local people are willing to pay more tax to eliminate poverty (Gordon et al 2002).

Tax is not the only way to fairly redistribute income. In Japan this is done by much lower wage differentials, and a fairer wage structure than seen in most wealthy countries. Consequently the lower paid, who may work just as hard as the higher paid and do very valuable jobs, get paid relatively more so there is less need for redistribution, and low taxes. (Wilkinson 2009). However it is interesting to note that in Guernsey there have been concerns that the Minimum Wage has had unintended consequences by some employers paying a lower wage.





- *Community mindset*

The other issue is the mindset of our community. Do we think community or keeping up with the Jones' to show that we are "high status" humans. In Oregon, Western USA, some years back, an advert said "come to Dean's boatyard - show your friends you are not just an ordinary millionaire, but a multi-millionaire." This at a time when there was significant poverty, and ordinary people on the buses did not have enough money to pay for basic health insurance cover and may have been unable to obtain healthcare if they were acutely ill. At a community level an ordinary millionaire boat and a bit more wealth redistribution would have made a big difference to community well-being. The USA, despite its wealth, has some of the greatest wealth and health inequalities in the Western world. In some places this leads to a worse standard of living for the wealthy as they need to protect themselves with high fences and guns from the threat of crime.

I suspect that most Guernsey people would accept that narrowing the gap between the "haves" and the "have nots" by eliminating poverty was fair.

### *Measurement and Further Research in Health Inequalities and Health Equity*

WHO recommend that States should undertake surveillance of health inequalities (WHO 2008a).

The WHO European Region set as one target, progress on equity in health, that by 2020 the health gap between socioeconomic groups within countries should be reduced by at least one fourth in all member states, in particular substantially improving the level of health of disadvantaged groups (WHO 1999).

In particular they advised that countries should by 2020;

- i. Reduce the gap in life expectancy by 25% by socioeconomic groups
- ii. Values for major indicators of morbidity, disability and mortality in groups across the socioeconomic gradient should be more equitably distributed
- iii. Socioeconomic conditions that produce adverse health effects, notably differences in income, educational achievement and access to the labour market should be substantially improved
- iv. The proportion of the population living in poverty should be greatly reduced





- v. People having special needs as a result of their health, social, or economic circumstances should be protected from exclusion and given easy access to appropriate care.

A recommended framework for a minimum health equity surveillance system are given by the WHO (2008a, Boxes 16.2 and 16.3).

The States Strategic Monitoring Reports (SoG 2011b and 2012d) contain key performance indicators used to measure progress against the aims of the States Strategic Plan (SoG 2011b). The indicators are divided into fiscal and economic, social, and environmental to reflect the existing policy groups that report to Policy Council. In addition the Health and Social Services Department have recently produced a Health Profile which looks in more depth at health indicators (Cataroche and Bridgman 2011), and HSSD will be developing key performance indicators as part of the 2020 Vision.

Currently the States have targets for adult and childhood poverty (SoG 2012d), but the targets have not been quantified (SoG 2012d). The measure used is the percentage of people below median income, which is a European indicator of relative poverty (SoG 2012d). A further local target which should be considered is to progressively increase the percentage of households that have an income after tax and benefits that is sufficient for healthy living and social inclusion, as defined by the Minimum Income Standards for Guernsey.

A target has also been set for total unemployment being equal or greater than 2%. Although unemployment has been rising, this target is currently being met.

While there is not currently a target on income inequality, income is such an important determinant of health, that one should be set. An alternative or additional measures would be that adopted by Scotland, which aim to increase both overall income for everyone and the proportion of income earned by the three lowest income deciles as a group. There are other internationally used measures of income inequality that could also be considered (Wilkinson and Pickett 2009).

**Recommendation 7:** The States adopt an income inequality measure as a Key Performance Indicator for health equity.

There are some targets for educational achievement for children but not adults, although adult targets are planned to monitor the progress of Guernsey Skills Strategy. Measures of educational achievement should be broken down by socioeconomic factors.



Guernsey's key health performance indicators have been developed across the whole population too (SoG 2012d). For health statistics, Guernsey frequently compares itself to the UK, where we share for instance a cancer surveillance system. A common method of inequality monitoring used in the UK has been to use deprivation indices based on geographical areas broken down by deprivation index, but this measure is not available in Guernsey. School-catchment area has been used locally to show inequalities in health (Cataroche and Bridgman 2012), and they have also been used to practically target resources to geographical areas perceived locally to be more deprived (see dental section of this report). Given owner-occupied residential areas tend to be more affluent, one problem in Guernsey in creating a geographically based local deprivation index has been the mix of housing tenures in close proximity.

Alternative measures of population stratification to geographical areas that can be considered for socio-economic monitoring of health inequalities include geography, ethnic origin, educational attainment, occupation, housing tenure and disabilities. Monitoring by receipt of benefit, e.g. supplementary or clothing grants should also be considered.

Guernsey has a robust system to monitor and code causes of death through the Public Health Directorate. Further monitoring of morbidity in Guernsey requires development, and in particular access to primary care data. Although the States invest around £20million in primary care indirectly through health care and pharmaceutical benefits to patients, there is requirement yet for the provision of health statistics from this sector of the health economy. There is an opportunity to achieve this with a planned review of the healthcare system.

**Recommendation 8:** Health equity indicators within Guernsey require further development, including using primary care data.

While statistical data are essential to describe the extent of a public health problem, they do little to explain the experience of that problem or its impact on people's lives (WHO 2008a). Providing a sense that real life experience is essential for advocacy and for giving policy makers and others stories that can change hearts and minds (Baum 1995). Sometimes, the qualitative aspects of inequality are often extremely difficult to measure, and only very specific and detailed enquiries could, for instance, reveal the extent of open and covert discrimination that in most societies affects people who are in any way different from the majority. Such data can be collected by community and voluntary organisations as well as professional staff. More qualitative research is needed locally on the impact of health inequities on local people.



**Recommendation 9:** Qualitative research is needed on the impacts of health inequities on local people

Currently the health of and access to health of some vulnerable clients such as those with disability are not routinely monitored. These issues should be addressed in the developing States disability and equality strategy. In addition, migrants throughout the world are considered at high risk of health inequalities, and poverty, and worldwide commonly face social exclusion (Marmot et al 2012). This is an area little explored in Guernsey, and requires further research

**Recommendation 10:** Local research is undertaken to assess the health needs of ethnic minorities and migrants

### *Collaboration with other Small Jurisdictions*

Putting right the major and remediable differences in health within Guernsey is a matter of social justice. It has been recognised that the impact of social changes in small countries can be particularly rapid. For instance the UK Government's arguably highly unfair and discriminatory decision on Low Value Consignment Relief led to job losses and will have had a significant, but unmeasured impact on local health and well-being (BBC 2012).

Guernsey already works closely with the other Crown Dependencies of Jersey and the Isle of Man. There is also interesting comparative work undertaken by Island Analysis (2012) in comparing small jurisdictions.

In addition The WHO European Region, led by the San Marino Government, has set up a project to establish a strategic platform for investment for health and development for small-population countries, which will bring together WHO, countries, academic institutions and regional development organizations with a shared interest in developing policy and governance responses that advance health equity as part of a fair and sustainable society (WHO 2012d).

**Recommendation 11:** Guernsey should consider participating in the WHO network of small European jurisdictions that wish to advance health equity.



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## HOUSING

### Introduction

The impacts on health from housing conditions have been well understood for over two hundred years. Philanthropic industrialists of the eighteenth and nineteenth centuries spent their own fortunes on building accommodation for their workers because they understood that if people had good quality housing, free from overcrowding and disrepair, they would be healthier, happier and more effective members of society, and more productive workers.

The first Medical Officer of Health (MOH) was appointed in 1847 (Ashton 1989). In 1872 and 1875 the first Public Health Acts were introduced in the UK. These required 'Local Boards' to employ an MOH and Inspectors of Nuisances to undertake the first ever regulatory public health roles, aimed at improving the squalor of the towns and cities by preventing poor accommodation and overcrowding and preventing the spread of disease.

This work is still undertaken today by the MOH and Environmental Health Officers, although this is now delivered to meet current standards for population health; improving health and well-being and improving the quality of life for our community.

In Guernsey, there are no local housing standards that set the minimum requirements for accommodation; this is unfortunate, as such standards can be used as a tool with which to assess the impacts from housing on the health of residents. Evidence-based standards can be used to improve health and reduce health inequalities and, if enshrined in legislation, can ensure that property owners carry out any improvements necessary to promote and protect health and well-being.

A number of factors impact on health from housing. These include the state of repair, the facilities provided, indoor air quality, fire safety and the activities of the occupants.

In the last twenty years or so, an increasing emphasis has been placed on the quality of life of residents and this can be influenced by the aesthetic environment, refuse collection, anti-social behaviour, freedom from crime etc.

### Background

It is well understood that poor quality housing leads to poor health and therefore higher costs for government. It follows, therefore, that improving housing conditions will have major health benefits for the community, as well as reducing the burden on health and social services in the long term (BRE 2010).





In Guernsey there are 25,777 dwellings (2010 Housing Bulletin) of which 63% are owner occupied, 8% are in the social rented sector, 26% are the private rented sector and 3% other include staff accommodation and lodging houses.

Whilst the link between housing and health is commonly acknowledged, outside of efforts made to improve the quality of longstanding social housing and to ensure that all new social housing is built to lifetime homes standards, little has been done in Guernsey proactively to address this issue. There exists a poor understanding of extent and prevalence of housing problems, and a belief among the general public that such problems are confined to 'houses in multiple occupation' (HMOs). HMO is the collective term used for staff accommodation, lodging houses etc. and accommodation where there are two or more households share bathroom and/or kitchen facilities.

Although the HMO sector is directly linked to health inequity, there are other housing issues in Guernsey that need to be addressed. For example, an elderly homeowner may be asset rich but cash poor, to the extent that they cannot afford to maintain or even heat their home. High energy bills affect occupiers of all ages, particularly tenants renting poorly-insulated properties of single leaf block construction.

Currently there is no statutory standard of fitness for all tenures or provisions for quality of life. In the absence of a standardised inspection model that can be used to assess housing standards against health criteria, there is a reliance on importing concepts from the UK, WHO, EU etc. but these are not embedded in local policy or law. Many private rented properties such as HMOs would be better managed if they were required in law to be registered.

The inspection of housing to assess impacts on health has always been undertaken by Environmental Health Officers, currently based in the Office of Environmental Health and Pollution Regulation (OEHPR).

In Guernsey, the OEHPR receives around 150 complaints a year about poor housing conditions, although only around 35 of those lead to formal interventions with the house owner/landlord.

This section sets out inequalities in housing, the environment and health, and summarises the evidence which indicates areas for future policy development. These areas are: improving the availability and quality of housing; and increasing the safety of the environment in which people live. The section also summarises the benefits which might result from such policies.



## Reducing inequalities through action on housing conditions

Shelter is a pre-requisite for health; however, islanders surviving on a low income commonly suffer both from a lack of housing or from poor quality housing. Furthermore, the fear of crime compounds the social exclusion of people living in disadvantaged areas.

The Housing Department accommodates families with children and older people, whilst the Island's other main provider of social housing, the Guernsey Housing Association (GHA), caters additionally for single people of working age, and couples without children. All social housing, however, is aimed exclusively at low income groups, for the simple reason that Islanders who work in low paid jobs or rely on benefit are most likely to struggle to secure decent accommodation. Furthermore, both the Housing Department and the GHA operate a Review of Tenancy policy whereby tenants who earn above the eligibility thresholds are moved out of social housing to make room for lower earners, i.e. people in greater need of affordable accommodation.

The majority of social housing tenants are not disadvantaged in anything other than the financial sense; and the affordability of their accommodation helps in this regard. But it is true to say that social housing also accommodates a number of families with more complex needs, and this creates the risk of a concentration of 'problem families'; taken to extremes, it reinforces a sense of separateness and division between affluent Islanders and the less well off.

This inequity in housing—brought about by inequality of income—is an important factor when trying to address improvements health and well-being in Guernsey.

## Lack of affordable housing

There is little local data on the health impacts of homelessness on local people. However in the UK, very high mortality rates have been recorded for homeless people, particularly for rough sleepers and hostel users; surveys indicate high levels of health need among the homeless population.

In the UK, 45 per cent of the bed and breakfast population have been found to experience psychological distress, compared to 20 per cent of the general population. Rates of self-reported depression and anxiety are three times higher among those in bed and breakfast accommodation and ten times higher in rough sleepers.

There is also an elevated prevalence of major mental disorders, most notably schizophrenia, among young homeless people, and a high rate of attempted suicide.





Whilst there appear to be few instances of outright homelessness in Guernsey, this issue needs very careful consideration and management. The Youth Housing Project, run by Action for Children and funded by the Housing Department and the Home Department (the latter using funds allocated to the Drug and Alcohol Strategy), offers assistance to young people aged 16 to 25 who are experiencing, or are at risk of, homelessness. The Project manages eight training flats and operates two 'crash pads' for young people who need somewhere safe to sleep in an emergency. The Project has close links to HSSD's St Julian's House, which offers safe, secure accommodation to adult men and women who would otherwise have nowhere to go.

In addition to their higher risk of mental health problems, surveys in the UK have shown that people who are single and homeless have a higher prevalence of bronchitis, tuberculosis, arthritis, skin diseases, infections, problems related to alcohol and substance misuse, and higher rates of hospital admission. People living in bed and breakfasts and HMOs have high rates of some infections and skin conditions, and children have high rates of accidents, a high-priority public health issue in Guernsey. Living in such conditions creates stressful environments for the parents and impacts on normal child development through lack of space for safe play and exploration. Safe environments for children are a major facet of the Children's Environmental Health Action Plan, currently in development, which prioritises unintentional injury and asthma. This plan is incorporated within the Statutory Guernsey Children and Young People's Plan.

Whilst cause and effect are hard to demonstrate, at the very least, homelessness prevents the resolution of associated health problems. For example in the UK: many young people recently made homeless do not have adequate access to health care; and homeless people who are heavy drinkers may have less access to health services for all their needs, including treatment of health problems related to alcohol and substance misuse.

Neighbourhoods and the development of new residential areas may benefit from the principle of planning to promote a mix of housing tenures, housing design, employment status, household composition and age groups. This may avoid the problems of concentration and isolation of those suffering the greatest disadvantages, and the potential overload on services.

Although improvements in quantity and quality of housing are not certain to improve health, it is logical that they should do so. Such benefits would be on a range of health outcomes. Reducing official and unofficial homelessness and social housing waiting lists by taking steps to make private rented accommodation more affordable and of a better quality would meet a basic health need of groups already vulnerable to poverty and ill-health, including families and people with mental health problems.



If improvements are made through community-led developments, this may also enhance social networks, with other potential benefits to health.

### Unintentional Injury and home safety

The World Health Organisation (WHO) has undertaken many studies into unintentional injury and has concluded that in Europe, action to prevent falls, scalds and poisoning in children would bring about major improvements in population health. In Guernsey, in a housing context, taking steps to prevent falls and scalds should be a priority; housing design and environmental amenity can be a major influence for prevention. Further work is needed to align hospital admission and data gathering with the inspection regimes in houses to achieve the best outcomes and improvements in health.

A single joint approach to monitoring and then taking steps to prevent falls in the home for all age groups should be a major health improvement initiative through referral systems.

### Fire Safety

Although the local Fire service aims to manage any fire incidents, it is also proactive in fire prevention initiatives such as providing advice, installation of fire alarms. This work would benefit from a joined-up approach with those involved in housing inspection so that resources could be targeted into high risk areas where the need is greatest.

All social housing is fitted with smoke alarms that are inspected regularly.

### Indoor air quality

Indoor air quality is becoming a focus of attention because concentrations of pollutants in confined spaces can be breathed in and can have a significant impact on respiratory health, such as asthma, bronchitis, emphysema and lung cancer.

Indoor air can be affected by a range of pollutants such as radon gas, gases and particles, such as carbon monoxide and smoke, associated with indoor boilers and fires, smoking tobacco products, mould and fungal growth and pollution from outside accumulating in 'micro environments' in buildings caused by poor design. Such pollutants can be concentrated in corners and stairwells, sometimes increasing to unsafe levels. An important intervention by the Ambulance and Rescue service for a collapse in the home should always be to assess whether the patient was near a heating appliance prior to collapse, in case of carbon monoxide poisoning.



During our lives we are subjected to a multiple of exposures in a wide range of indoor and outdoor places. The relationship between multiple exposures and indoor micro environments is worthy of further consideration when assessing housing conditions.

A recent survey for radon, a naturally occurring radioactive gas, in Guernsey revealed that a few properties have levels of radon that warrant immediate action. The research indicates that there is a direct relationship between long-term radon exposure and smoking and so stopping smoking will make a significant difference to the risk of lung cancer. The majority of properties surveyed were well within safe levels. Simple measures such as giving up smoking and having good ventilation can reduce the risks of ill health significantly.

Good ventilation is a sensible public health approach as this will allow good air circulation to prevent the build-up of pollutants and will also reduce condensation which can lead to mould growth. This is often exacerbated by poor heating.

Improved public health advice for occupants on 'healthy lifestyles at home' needs to be taken forward.

## RECOMMENDATIONS

<b>Recommendation 12:</b>	Develop jointly agreed policies that improve the availability of social housing for the less well off within a framework of environmental improvement, planning and design which takes into account social networks, and access to goods and services.
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<b>Recommendation 13:</b>	Jointly agree policies which improve housing provision and access to health care for both officially and unofficially homeless people
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<b>Recommendation 14:</b>	Jointly agree policies to improve insulation and heating systems in new and existing buildings in order to reduce the impact of fuel poverty and ill health associated with cold and dampness.
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**Recommendation 15:** Introduce new housing legislation that will enshrine housing standards that will improve space and amenity to reduce accidents in the home and ensure a minimum standard for all housing in Guernsey.

**Recommendation 16:** Jointly agree initiatives and performance measures that will target resources into the most high risk housing areas to achieve the best health outcomes for the community.

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## INFANT FEEDING

### *Breastfeeding and Health*

Breastfeeding is an unequalled way of providing ideal food for the healthy growth and development of infants; it is also a normal part of the reproductive process with important implications for the health of mothers. Given the documented short and long-term medical and neuro-developmental advantages of breastfeeding, infant nutrition is a public health issue and not only a lifestyle choice (AAP 2012).

Ideally, babies should be exclusively (no solids or liquids besides human milk, other than vitamins and medications) breastfed for the first 6 months of life to give them the best possible growth, development and health (Kramer & Kakuma 2012). After that, to make sure that their nutritional needs are met, infants should receive the correct complementary foods while breastfeeding continues for up to two years of age or beyond. This will ensure that evolving foods requirements are met. Exclusive breastfeeding from birth is possible except for a few medical conditions, and unrestricted exclusive breastfeeding results in ample milk production (WHO 2001).

There are extensive and wide ranging known benefits of breastfeeding for the infant compared to artificial feeding<sup>1</sup> and there are some benefits which are thought to be associated with breastfeeding but require more research to confirm they are better<sup>2</sup>. Exclusive breastfeeding for six months has several advantages over exclusive breastfeeding for three to four months followed by mixed breastfeeding (Kramer and Kakuma 2012).

The reduced risk of various infections occurs because the mother transfers to baby protective proteins (antibodies) in milk. Just a small percentage of babies will require infant formula, because they have specific medical conditions or their mothers have been unable to breastfeed (WHO 2001, RCPCH 2011).

While there is much data to show the benefit of breast-feeding in developing countries, there is less in industrialised countries. In the UK Millennium Cohort Study, by the age of 8 months 1.1% of children had been admitted to hospital with diarrhoea and 3.2% for lower respiratory tract infection. This study showed that half of the hospital admissions from diarrhoeal illness and a quarter of hospital admissions from lower respiratory tract infection could be prevented by exclusive breast-feeding (Quigley et al 2007).

<sup>1</sup> They include; lower risk of gastro-intestinal infection/diarrhoea; respiratory infections; necrotising enterocolitis and late onset sepsis in preterm babies; urinary tract infections; ear infections; allergic disease (eczema, asthma and wheezing); Type 1 and type 2 diabetes; obesity; childhood leukaemia; and sudden infant death syndrome.

<sup>2</sup> neurological development; cholesterol levels; and blood pressure.





Women who breastfeed are at lower risk of: breast cancer; ovarian cancer; hip fractures and reduced bone density. Medical contra-indications to breast feeding are rare (AAP 2012). Women who exclusively breastfeed for 6 months have more rapid maternal weight loss after birth, have delayed return of menstrual periods, and have less risk of iron deficiency (Kramer and Kakuma 2012).

The need to increase breast-feeding rates is identified in the Guernsey Children and Young People's Plan 2011-3. Increasing the initiation rate and duration of breastfeeding can improve health, reduce inequalities and reduce costs through the prevention of health problems (Renfrew et al 2012).

### **Breast-feeding Initiation**

In Guernsey, breast-feeding initiation is recorded by midwives on the mother's clinical record. The percentage of mothers who initiated exclusive breast feeding for their infants increased from 59% to 75% from 1992 to 2011 (Figure 5) and from 66 to 75% from 2008 to 2011 (Figure 6).

Figure 5 Breastfeeding Initiation 1992–2011

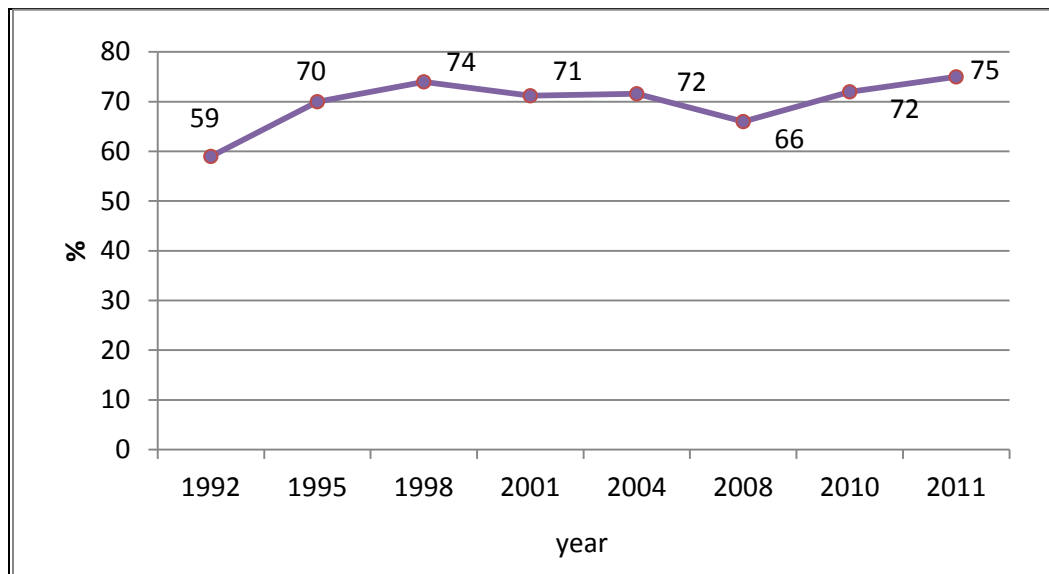




Figure 6 Feeding initiation type by year for 2008, 2010 and 2011. Source: EUROKING (The denominators are live births with no medical reasons not to breastfeed).

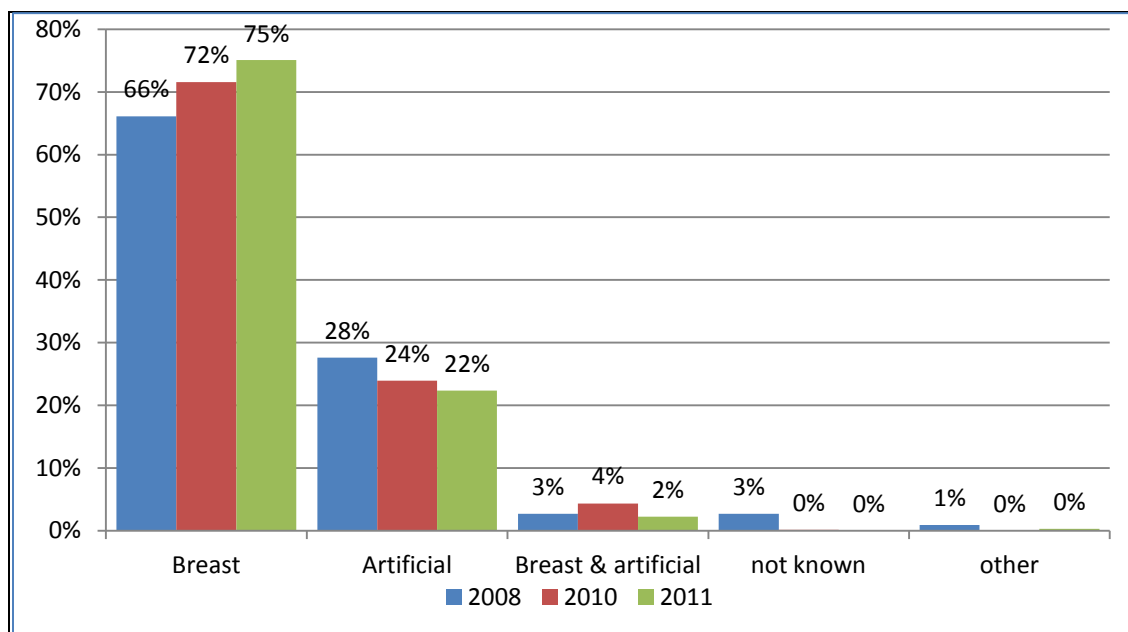
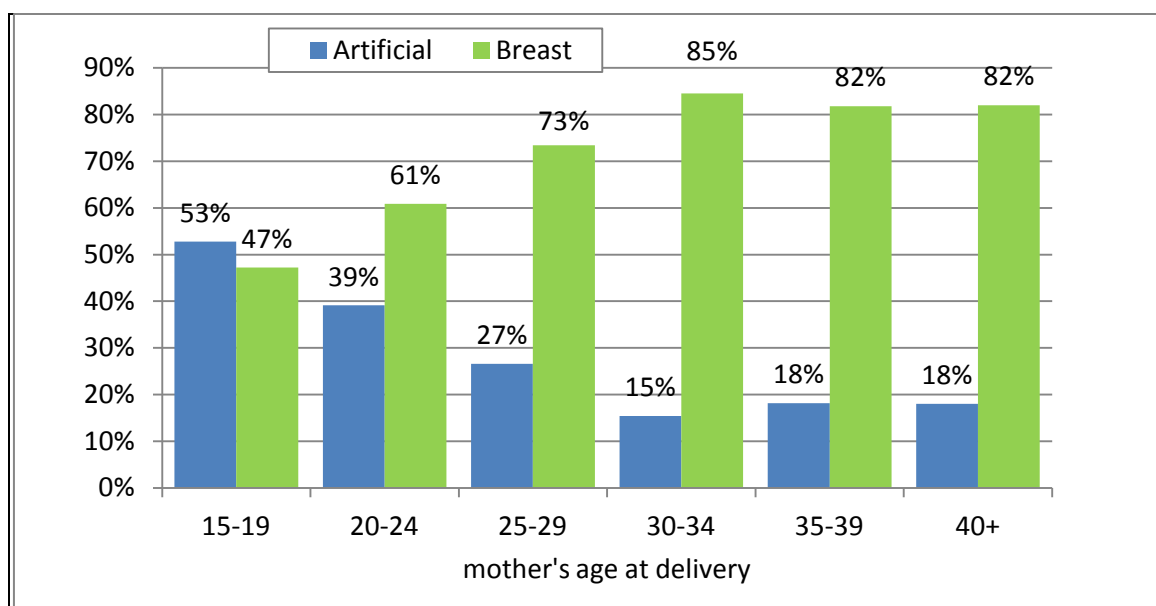


Figure 7 Feeding initiation type by Maternal Age, 2010 and 2011 combined





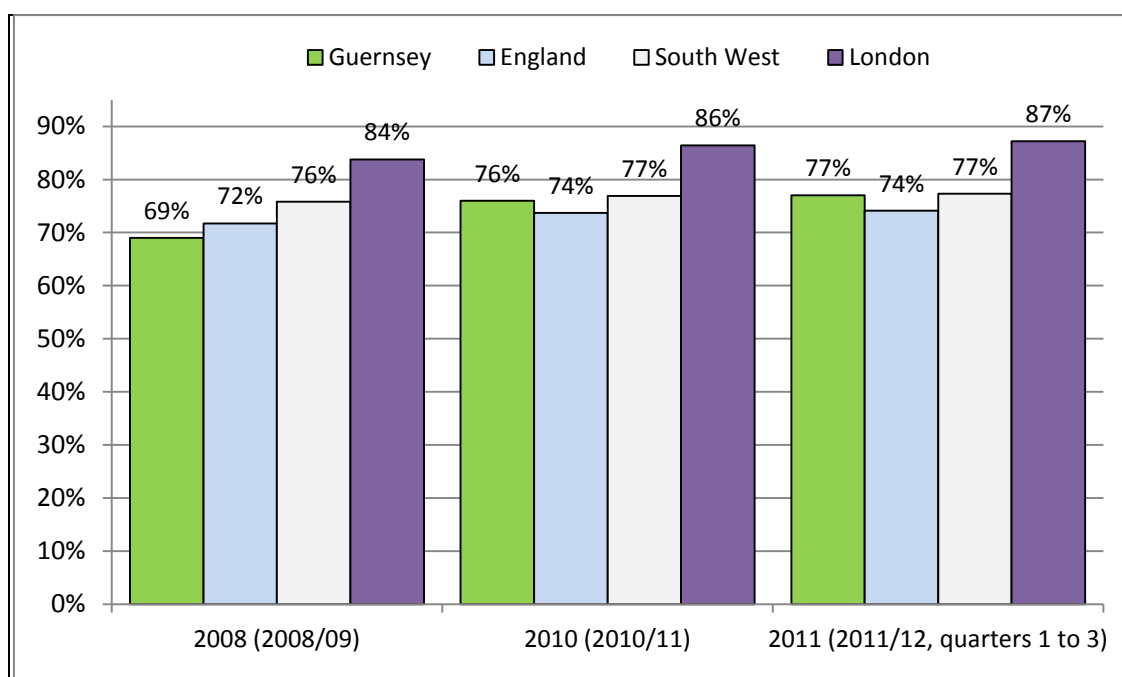


The overall percentages hide variations with types of mother. Younger mothers, and in particular teenage mothers, are almost twice as likely to artificially feed their babies than older mothers (Figure 7, Table 1). The modal age for mothers not breast-feeding was 25-29 years. Overall, about 150 babies a year in Guernsey do not receive any breast-feeding.

Table 1 Numbers of women who initiated artificial and exclusive breast-feeding by age, 2010-11 combined (Figures are graphically represented in Figure 6).

Age group	Number of women by feeding type		Total
	Artificial	Breast	
15-19	38	34	72
20-24	61	95	156
25-29	80	221	301
30-34	61	334	395
35-39	50	225	275
40+	9	41	50
<b>Grand Total</b>	<b>299</b>	<b>950</b>	<b>1249</b>

Figure 8 Breastfeeding Initiation in Guernsey, England, South-West England and London (English statistics source: <http://transparency.dh.gov.uk/2012/02/16/breastfeeding-statistics/>)





NB. English data on breastfeeding initiation are reported by financial, not calendar, years, in contrast to Guernsey. In Figure 3 - Data for the financial year 2008/09 (April 2008 to March 2009) is taken as the nearest approximation of the calendar year 2008, and so on for subsequent periods. No distinction is made between these two categories by the Department of Health (DH), breastfeeding initiation is said to have occurred if a baby received any breast milk at all in its first 48hrs. The DH denominator used for breastfeeding initiation will include all live born babies, whether or not there may be contraindications to breastfeeding (Conrad Ryan, Department of Health, *Personal Communication*).

Guernsey breastfeeding initiation rates are comparable to those in the South-West of England, and the English average (Dyson et al 2006), but lower than those in London (Figure 8). However, both Guernsey and the UK are near the bottom of the international league tables of babies who have ever been breastfed, and we lag far behind some Scandinavian countries where nearly all babies have ever been breast-fed (OECD 2009).

### **Breastfeeding Duration**

Breast-feeding duration is also an important health measure for infants. At the top of the world breast-feeding league table is Rwanda, with 94% of children exclusively breastfed at 4 months and 88% at 6 months. (Our Times - 2008). The UK is bottom of the league table with rates of less than 20% and about 10% for exclusive breast-feeding at 3 and 4 months in 2005 respectively (OECD 2009). This compares with figures of about 60% and 50% in Norway, the European leader.

In Guernsey, health visitors take over the care of infants from midwives, ten days after birth. They complete "*The Infant Feeding Survey*" for all mothers who deliver at the Princess Elizabeth Hospital. Mothers are asked at their eight month baby check to choose one of the following options for breastfeeding duration; none, birth, 1 week, 2 weeks, 6 weeks, 4 months, 6 months, or 9 months.

On study of the data collected between May 2009 and May 2011 only limited results were available about breastfeeding continuation. Data were available for only 68% of the estimated 1,300 infants. For breast-feeding at 6 weeks data was available in only 50% of infants, of which, 61% were recorded as breastfeeding. It is not clear whether those infants where data is not available are more or less likely to breastfeed. There is even less data for breast-feeding at later periods in infancy. With the current survey methods it is not possible to separate babies who are partially breastfed from those who are totally breastfed.

The UK Department of Health has a minimum 85% quality standard for recording breast-feeding at 6-8 weeks, with 95% coverage preferred.



It is, therefore, recommended that in Guernsey data is collected to enable us to compare our breastfeeding duration performance with other jurisdictions, and to enable us to monitor improvement in Guernsey over time.

In addition, it is recommended that the Infant Feeding Survey, carried out by our Health Visitors, should be improved to give us valid statistics for breastfeeding duration. For example we need to know whether an infant is totally or partially breastfed, we need to meet the minimum quality standards of 85% of infants who have whether or not they breastfeed recorded at 6-8 weeks, and we need to improve measurement at later periods too.

### **Current Local Initiatives to Improve Breastfeeding**

Princess Elizabeth Hospital has been externally accredited by the UNICEF UK Baby Friendly Initiative since 1999. This initiative contains 10 Steps to Successful Breastfeeding (for maternity units). Initial accreditation as a Baby Friendly Hospital takes place in three stages:

- Stage 1 of the assessment procedure is designed to ensure that the necessary policies, guidelines, information and mechanisms are in place to allow health care providers to implement the Baby Friendly standards effectively.
- Stage 2 involves the assessment of staff knowledge and skills.
- Stage 3 assesses the implementation.

An extract from the most recent PEH report is:

*“The Princess Elizabeth Hospital has met virtually all of the criteria for continued Baby Friendly accreditation and the staff are commended for their work to maintain the standards previously established. It was clear to the assessment team that pregnant women and new mothers receive a very high, and in many areas exceptional, standard of care. All mothers interviewed without exception were very pleased with the amount and consistency of support they received both from maternity and neonatal staff.”*

In addition, there is a dedicated breastfeeding midwife, and also specific targeted support for teenagers and smokers.

The National Childbirth Trust work with businesses in the community and promote Baby Friendly local establishments in their newsletters.



### *How We May Improve Breastfeeding Rates*

To improve breastfeeding rates we need to understand and increase factors that help mothers' breastfeed and decrease those that hinder. Existing evidence into practice advice from the National Institute of Clinical Excellence identifies some areas where further work is likely to increase breastfeeding rates.

Both the decision of a mother to breastfeed, and her ability to implement her decisions are influenced by many factors, and problems often inter-relate. International factors include; globalisation and marketing of formula feeds by commercial interests; increased work opportunities for women without supportive childcare/feeding facilities; media portraying bottle feeding as norm and as safe; media displaying women's breast as symbols of sexuality; lack of implementation of WHO code on marketing of breast milk substitutes. National and regional factors include; lack of appropriate education/training for professionals; lack of supportive environments outside home and in the workplace; lack of breastfeeding education in schools. Individual factors amenable to change in short-term at micro socio-economic level; attitudes of partner, mother and peer group; social support from partner, family and friends; loss of collective knowledge and experience of breastfeeding leading to a lack of confidence; embarrassment about breastfeeding including perceived acceptability of public feeding both in and outside the home; difficulty of involving others in feeding; perceived inconvenience of breastfeeding and anxiety about total dependence of baby on the mother. Other individual factors amenable to micro change in the short-term may be; illness; perception of insufficient milk; painful breasts and nipples; baby rejects breast or is too tired. (Dyson et al 2006).

The factors adversely affecting the decision to breast feed at a population level are; younger mothers; leaving school at 16 or less; not married; white ethnicity; return to work before 4 months; lower socioeconomic group. The UK has been considered to have the lowest standards for compliance with international standards for support of breastfeeding in the workplace (Dyson et al 2006), and this will affect particularly less affluent women who have to work, and thereby contribute to health inequalities (UNICEF 2012).

There are particularly low rates of breast-feeding in younger mothers in Guernsey (Figure 7).

Three overarching themes arose from focus groups, "*moral norms*", "*sexuality of the breast*", and "*self-esteem*", with concerns relating to breastfeeding in public cutting across all theme (Dyson et al 2006).



In socio-economically deprived teenagers, Dyson found that “moral norms” were the most predictive variable influencing teenage intention to formula feed or breastfeed, in a deprived urban area in England. The likelihood that breastfeeding “will be embarrassing” was the only attitudinal belief rated as significantly important in influencing teenage intention to breast feed.

We do not have any systematically collected local data on the reasons why some of our mothers choose not to breast-feed or give up feeding. It would helpful if this information were to be collected by midwives and health visitors.

Some comments below from the Parents Panel of the Maternity Services Liaison Committee, and from the DPH meeting mothers at the Guernsey branch of the National Childbirth Trust, give useful insights into some of the local issues;

*“I have to say when I had Joe I had one negative experience where I was asked to stop feeding because I was making others feel uncomfortable but I am strong minded and told the person my son had a right to lunch as much as the rest of the people in the place did so if people didn't like it don't look”.*

*“I've fed all 4 of my children in Guernsey, I had the odd funny look and talking behind my back but no one actually said anything to me. I couldn't imagine feeding my babies any other way”.*

*“I don't feel like I should cover my breasts either whilst feeding- personally I find it more of a palaver anyway, its not my fault if someone can't view female breasts in a non-sexual way and I think until you have breastfed then you cant really understand how wonderful it really is and what an amazing bond it creates with your child”.*

*“A friend of mine went to a hotel on Guernsey for the weekend with her husband and baby and was asked to go and feed the baby in the toilets! Disgraceful!”*

*“I do find it hard feeding in public, I do the sit in the car etc as I feel a lot of people see it as wrong to feed in public. Was at Oatlands play area with my 3 year old and was feeding my then 3 week old with a blanket covering and was getting filthy looks and some woman saying quite loudly how it was wrong to breastfeed as they serve food there (even thought you could not see anything) this really puts me off feeding in public and makes it hard to go out in case the baby needs a feed 'cos a lot of the time if I feel uncomfy i'll sit in the car”.*

*“But I do think it would be helpful to provide one clean simple nursing room type facility somewhere in town (similar to the provision of public toilets) where Mum's could go if they did wish to have a bit more privacy for whatever reason. Perhaps this would persuade some to carry on feeding rather than potentially giving up if they really did feel genuinely uncomfortable about feeding in public. These types of rooms are commonplace in many shopping malls in the UK now so it's time Guernsey sought to follow suit”.*

*“All my children have been small yet thrived. With my third baby I felt I was being checked up upon by the health visitor as my daughter wasn't following the charts as they hoped.*



*I desperately wanted to solely breastfeed, they desperately wanted me to formula feed to get her weight up...it really knocked my confidence as a mother and I was told my milk wasn't good enough. In the end I just wanted the health visitor to leave me alone, I even went out so she wouldn't be able to come round every week to tell me to formula feed again – it was an awful experience, I didn't feel listened to and I even worried they may take all my children into care for not following their advice to formula feed – I persisted with breastfeeding with great help from both midwife and the NCT.*

*"I have never had any negative experiences when out and about".*

*"Too many see breasts as sexy rather than practical*

*"I had to give up breastfeeding as when I return to work there was nowhere for me to express and store my breast milk".*

*"My health visitor was really supportive of me breastfeeding and frequently asked how it was all going - I felt I could ask for breastfeeding help from her if needed".*

### **Health Visitor Advice**

One theme raised by mothers was variation in health visitor practice. Some health visitors rigidly followed centile charts in baby healthcare books, while others used them as a guide.

### **Maternity and Paternity Provisions**

Raising a family is a cherished goal for many working people. Yet pregnancy and maternity are an especially vulnerable time for working women and their families. Expectant and nursing mothers require special protection to prevent harm to their or their infants' health, and they need adequate time to give birth, to recover, and to nurse their children. At the same time, they also require protection to ensure that they will not lose their job simply because of pregnancy or maternity leave. Such protection not only ensures a woman's equal access to employment, it also ensures the continuation of often vital income which is necessary for the well-being of her entire family. Safeguarding the health of expectant and nursing mothers and protecting them from job discrimination is a precondition for achieving genuine equality of opportunity and treatment for men and women at work and enabling workers to raise families in conditions of security (ILO 2000 and 2012). Guernsey offers a maternity allowance for 18 weeks or a maternity grant. Given exclusive breast-feeding is recommended for 6 months, consideration should be given to how improvements in benefit can improve breast-feeding rates. However, improved benefits come with potential drawbacks to businesses on how to cope with someone on maternity leave, and to women themselves if businesses become less likely to employ women because they may go off on maternity leave.



Guernsey is not compliant with United Nations Convention on the Elimination of All Forms of Discrimination against Women. This was adopted by the United Nations in 1979 and came into force in 1981. This protects women so that they can take maternity leave without loss of former employment, and that they can receive maternity pay.

Improved maternity provisions also contribute to increased social inclusion; improving child and maternal health; helping to reduce child poverty by giving families with newborn children more income security; improving the work-life balance of families; and maximising the workforce by making it easier for women to re-enter employment (SoG 2012).

While many organisations are already making provision for maternity leave, on Guernsey an online survey suggests that there are still a number who would not provide more than 6 weeks leave unless there was compulsion to do so (SoG 2012).

Recently there have been local proposals for 12 weeks for basic maternity leave (SoG 2012). By international comparisons these are modest, for instance Norway introduced 12 weeks of paid maternal leave in 1956, and in 2009 parental leave was extended to either 46 weeks with full pay for 56 weeks with 80% pay. While it is likely that extending maternal paid leave will improve breastfeeding rates, in the current economic climate this may not be affordable. Some countries are exploring the option of paid breastfeeding breaks (Australian Government 2012).

Mothers noted that in Guernsey some had to return to work before they would like to or were ready to because of license or contract issues. Some also noted that as they did not have anywhere suitable to express and store breast milk at their place of work, they had to switch to formula feeding earlier than they had wished.

### ***Control of Marketing of Infant Substitute Milk Formulas***

Given the problems of marketing of breast milk substitutes, some countries e.g. Papua New Guinea, introduced legislation so that substitutes have to be prescribed by a registered health worker who had to verify it was in the babies interest to have the substitute, and that mother's knew how to use it (Lambert 1980). While such a measure should be discussed in Guernsey and would benefit infants, this might be seen as a restriction of lifestyle choice and be unpopular.

In 1981 the WHO produced a code for marketing of breast milk substitutes given concern on the detrimental effect of marketing worldwide. The code was adopted





by the 34<sup>th</sup> World Health Assembly in 1983, and is a voluntary code on composition, labelling and advertising of infant formulae, and substantial aspects of the code have been adopted by European Commission (2006). Currently we do not have any data on how well Guernsey is implementing this code. I recommend an audit of best practice against this code.

### **Recommendations**

Breastfeeding rates in Guernsey are some of the lowest in the world, with consequences for the health of our infants, mothers and individual and States finance. The following actions are:

**Recommendation 17:** Develop a strategy to increase rates of initiation of and continuation of breast feeding, including appointment of a lead health visitor for infant feeding to lead on policy and practice, support community services to obtain UNICEF baby-friendly accreditation, and develop volunteer peer support in early postnatal period with National Childbirth Trust.

**Recommendation 18:** Improve measurement, including introduction of internationally accepted measures of breastfeeding continuation rates, improve Infant Feeding Survey to at least meet the 85% response rate standard, record and monitor mother's reasons for not starting or stopping breastfeeding, and set breastfeeding initiation and continuation rate targets in the States Strategic Plan.

**Recommendation 19:** Improved maternity leave and maternity benefits to support mothers continuation of breastfeeding.

**Recommendation 20:** Educate children on breast-feeding to ensure they regard it as normal behaviour using a programme such as that developed and used in North-West England, and a media campaign for teenagers.

**Recommendation 21:** Improve community support through improved employment practices to enable mothers at work to express and store breast milk, and provision of community facilities such as a quiet breast-feeding room in St Peter Port.





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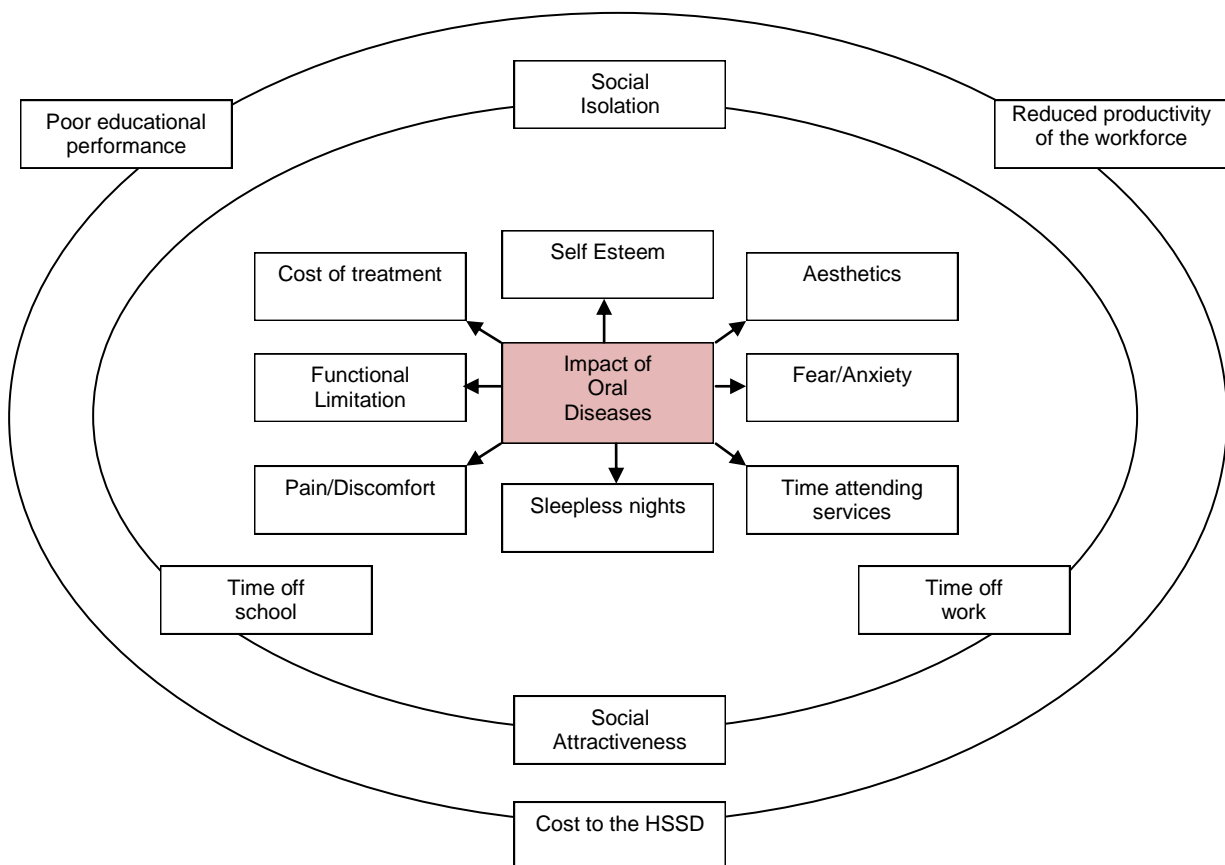
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## DENTAL and ORAL HEALTH

Diseases of the mouth (oral diseases) may affect the teeth and gums (dental disease), or other tissues and parts of the mouth, and are among the most common diseases in humans. The facial structures (including the mouth and teeth) allow us to speak, smile, kiss, touch, smell, taste, chew, swallow, and socialise. Oral and dental health is integral to general health and should not be considered in isolation. Oral and dental disease can have major impact on well-being and quality of life much wider than might first be thought (Figure 9).

Figure 9: Impacts of Oral Disease  
(modified from Dept of Health 2005 based on Department of Human Services, 1999)





The prevention of oral and dental diseases will not only improve health but will prevent some of the individual and States costs associated with treatment and active disease.

This section highlights aspects of the important issue of dental public health, but is not intended to be a comprehensive overview of dental public health on the islands.

### ***Key Conditions - Effects and Risk Factors***

The most important public health impact of dental conditions are dental decay (caries), periodontal (gum) disease, and oral cancer. Other conditions include oral infectious diseases, trauma from injuries, and erosions. Oral diseases restrict activities in school, at work and at home causing millions of school and work hours to be lost each year the world over. Oral health affects general health by causing considerable pain and suffering and thereby changing what people eat, their speech and their quality of life and well-being.

The strong links between several oral diseases and non-infectious chronic diseases is primarily a result of the common risk factors (Figure 10), for example, severe gum disease is associated with diabetes. A thorough oral examination can detect signs of nutritional deficiencies as well as a number of general diseases including microbial infections, immune disorders, injuries, and oral cancer.

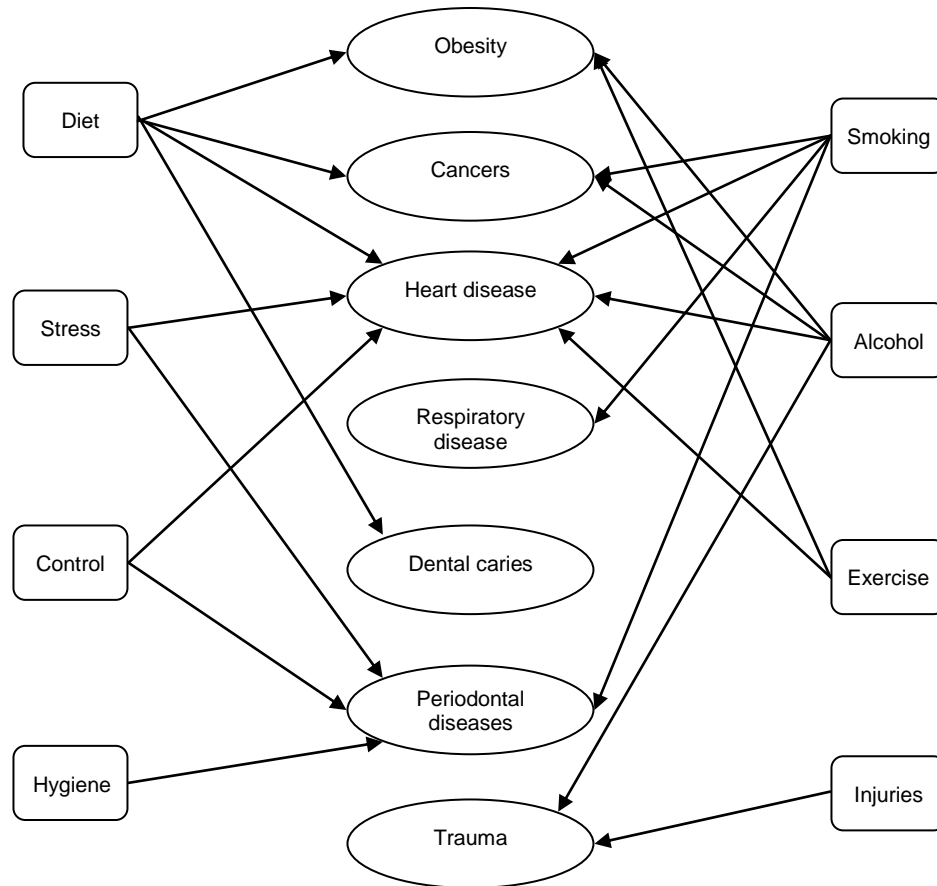
Dental decay or caries is a major preventable health problem in most industrialized countries, affecting 60-90% of schoolchildren and many adults. It is also a most prevalent oral disease in several Asian and Latin-American countries, while it appears to be less common and less severe in most African countries (WHO 2005).

In addition, a complication of dental infection is spread to other parts of the body. For instance, gross swelling associated with dental abscesses if not treated can block the airway. In addition infection can spread to other parts of the body such as heart valves, bone, joints, and brain causing sometimes fatal complications (Bridgman et al 1986).

The frequent and high consumption of sugary foods and drinks is the major cause of dental decay (DH 2005). Other risk factors include ready availability of snacks, challenging social circumstances, low health aspirations, siblings and parents with disease, and infrequent ineffective tooth cleaning (SIGN 2000). Many of these are also risk factors for other chronic diseases (Figure 10).



Figure: 10 Risk factors for dental and other chronic diseases  
(adapted from Sheiham & Watt 2000)



Tooth decay begins when the outer surface of the tooth is attacked by acid. The acid is produced by bacteria which live on the surfaces of the teeth as a layer called plaque. When food or drink containing sugars enter the mouth, the bacteria within the plaque rapidly convert the sugars into acid. The plaque can hold the acid in contact with the tooth surface for up to 2 hours before it is neutralised by saliva. During the time that the plaque is acidic, some of the calcium and phosphate minerals, of which enamel is largely composed, are dissolved out of the enamel into the plaque. This process is called demineralisation.

Once the damage to the tooth enamel has been done there is limited capacity for it to be repaired through re-mineralisation. If sugars enter the mouth too often the overall loss of mineral from the enamel surface results in a cavity through which bacteria can penetrate and infect the inner structure of the tooth. This is tooth decay and, if left untreated, will gradually destroy the tooth causing pain and often the formation of an abscess (Levine 1976).



Dental erosion is the dissolving of the tooth structure by dietary and gastric acids, which can be caused by acidic drinks for instance popular soft drinks such as Coca Cola, concentrated orange juice, lagers, beers, and wines. It can also be caused by gastric acid in people with bulimia. If a child drinks a glass of Coca-Cola and swills it around the mouth then the acids in the drink will start to dissolve all the teeth, even in a mouth that is otherwise beautifully clean and plaque free. Erosion can cause sensitivity of teeth. Once the tooth is eroded this is irreversible, and dental restoration of eroded teeth is difficult.

Trauma of teeth is also common, particularly during sports at school when teeth may be lost.

### *Guernsey Dental Health Statistics and Comparison to Other Countries*

Surveys are carried out to study the distribution and patterns of diseases and their causes or influences in well-defined populations. Without these studies it is not possible to plan and target services effectively. They take significant resources to undertake appropriately.

The World Health Organisation European Region (1999), of which Guernsey is a part set the following targets to be achieved by 2020:

- at least 80% of children aged 6 years should be free of caries (decay).
- 12-year-old children should have on average no more than 1.5 decayed, missing or filled teeth.

### *5 Year Old Children*

Guernsey's 5 year-old child population is the only age group which has been surveyed regularly, with surveys undertaken eight times since 1984 (Figures 11 and 12). The main measures of dental public health used are the mean number of decayed, missing and filled teeth, and the percentage of children who are disease free.

However, Guernsey does appear to have met the WHO European Regional target of 80% of disease free children early, although we measure children one year earlier than in those monitored by WHO, and it is likely that the dental health of our 6 year old children is a little worse than our 5 year olds. It is also known that population dental surveys underestimate disease as they only pick up teeth with obvious cavities. It should also be noted that in 2006, the children's dental service changed from a universal to a targeted service, and the children surveyed in 2011 were the first generation of 5 year olds affected by this change.



Figure 11 Mean decayed (d), missing (m), filled (f) teeth in five year old children in all Guernsey schools combined by year of survey

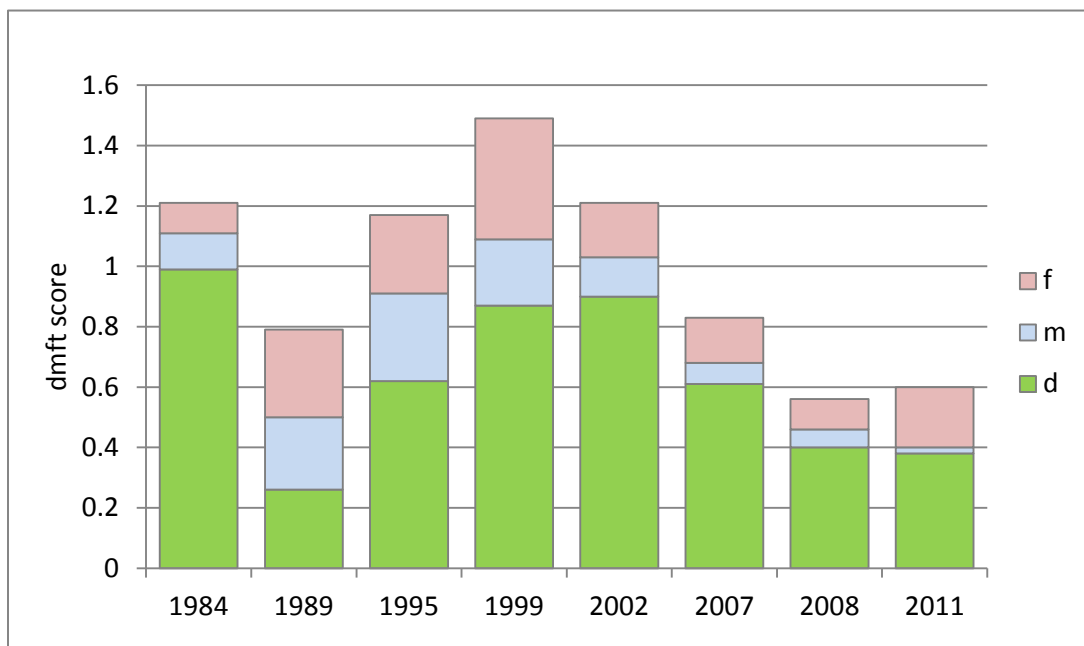
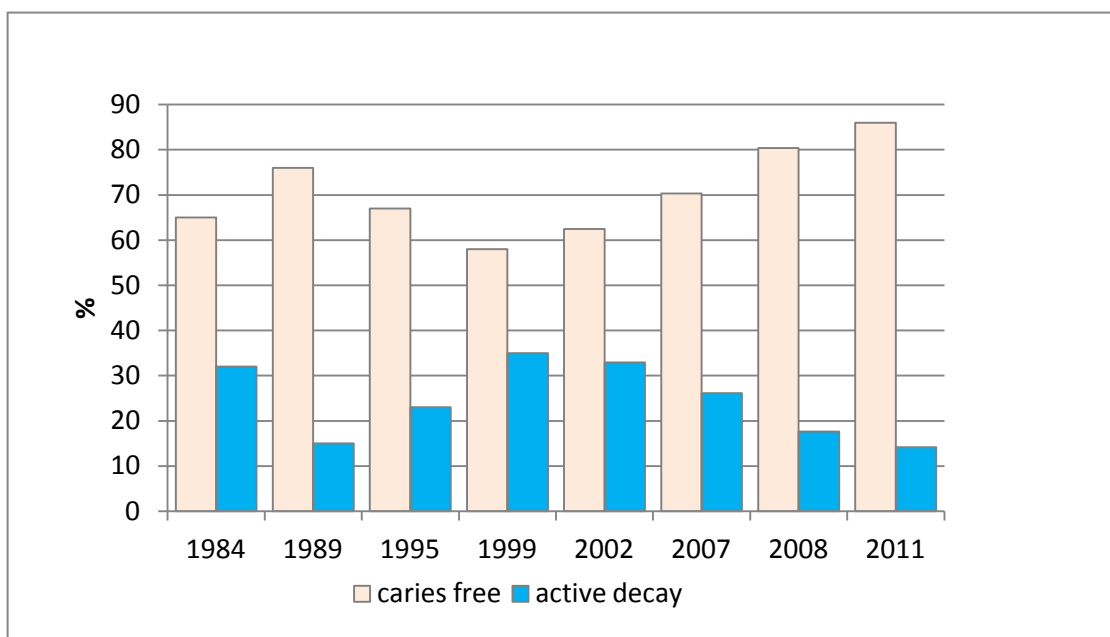


Figure 12 Mean percentage of five year old children who were decay free (no decayed, missing or filled teeth) or who had active decay in all Guernsey schools combined, by year of survey





The average score in 2011 for decayed, missing and filled teeth was 0.6, an improvement from the worst population dental health figures of about 1.5 in 1999, but slightly up from 2008. There are caveats with the data as noted above.

Guernsey children have better dental health compared to the most recent figures from England (Table 2). These figures also show that while a minority of 5 year olds have active decay, those that do, have an average of about three teeth with cavities.

Table 2 For 5 year old children Guernsey 2008 compared to England 2007/8, mean decayed, missing, filled teeth score (dmft), percentage children decay free, percentage children with experience of dental decay and mean dmft for children who have experience of disease.

	Percentage children decay-free	Percentage with experience of dental decay	Mean dmft	Mean dmft for those who have experience of disease
Guernsey 2008	80.4	19.6	0.56	2.79
England 2007/8	69.1	30.9	1.11	3.45

The overall Guernsey figures hide marked variations between school catchments (Figures 13 and 14, Table 3). In 2002, two schools had more than 50% of children with active decay compared to about 25% at another school. Since then there have been recorded improvements at all schools (Figures 13 and 14) although there are caveats with the comparability of results between survey years (see Appendix 1).



Table 3 Dental Health Survey of 5 Year Old Children. Mean dmft by school<sup>1,2</sup>, 2008 and 2011

**Mean dmft by school, 2008 and 2011, anonymised.**

School	2008	2011		
	dmft	dmft	N	95% CI
h	0.42	1.41	17	0.01-2.81
m	0.66	1.40	43	0.70-2.09
n	0.69	1.05	38	0.42-1.69
j	0.50	0.72	39	0.06-1.37
g	0.41	0.67	15	0.00-2.10
q	0.97	0.59	37	0.08-1.11
e	0.32	0.57	21	0.00-1.22
o	0.77	0.56	41	0.05-1.08
l	0.60	0.50	74	0.22-0.78
f	0.37	0.44	72	0.09-0.80
c	0.18	0.35	23	0.00-0.98
d	0.31	0.32	31	0.03-0.61
i	0.45	0.29	38	0.06-0.52
k	0.56	0.26	43	0.00-0.56
b	0.16	0.07	15	0.00-0.21
a	0.00	0.00	5	0.00-0.00
<b>All schools</b>	<b>0.56</b>	<b>0.60</b>	<b>552</b>	<b>0.46-0.73</b>

<sup>1</sup>Sorted by 2011 dmft values, arranged highest to lowest.

<sup>2</sup>School codes are consistent with those published in the *Health Profile for Guernsey and Alderney 2008*

It should be noted that the numbers of children in each school are relatively small so that one or two children with decay can make a disproportionate difference to the mean dmft of any individual school in any year.

In the UK, among 5 year olds, the probability of having obvious decay in the primary (baby) teeth was about 50 per cent higher in the lowest social group than in the highest. While we do not measure social class in Guernsey in the same way as the UK, our school catchments used as a proxy for relative affluence, indicate that we have a similar social gradient in dental public health in Guernsey as in the UK (Table 3), i.e. we have significant dental health inequalities.





Figure 13 Percentage of five year old school children recorded with active decay ( $dt>0$ ) by school and year of survey, (not all schools shown for clarity)

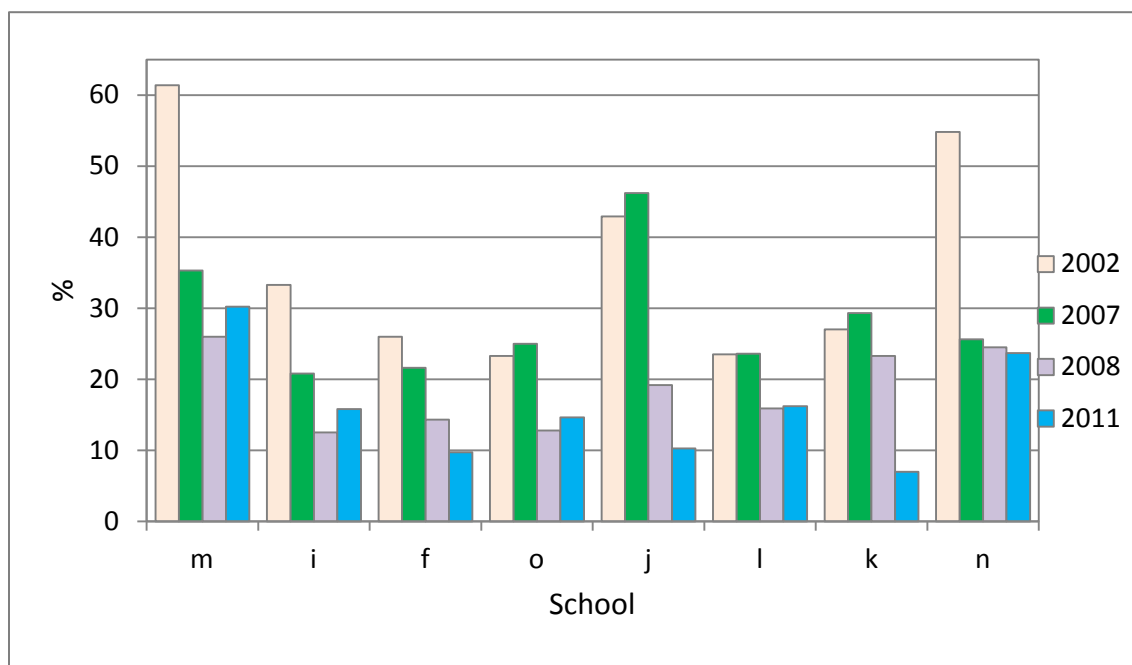


Figure 14 Mean decayed, missing filled teeth (dmft) score in five year old school-children by school and year of survey (not all schools shown for clarity)

### 12 Year Old Children

Guernsey's performance against the WHO target for the population health of 12 year old children of on average no more than 1.5 decayed, missing or filled teeth by 2020, cannot be assessed as there has not been a local survey in this age group. Although we have some local screening data, this is not comparable.

Results of UK studies may provide an indication of dental health in a fairly similar population, although there are wide regional variations in England. Further in the UK all children have access to NHS dental care that is free at the point of delivery whereas this is not the case in Guernsey. Comparison of 12 year old children in England has shown a dramatic improvement over time from 5 to less than 1 affected tooth per child on average between 1973 and 2003, such that England had the best oral health in Europe (DoH 2005).



### **Dental Screening**

The Children's Dental Service also undertakes a screening programme the purpose of which is to identify any children who may be suffering from an abnormal oral condition. The target school years are Reception, Year 5 and Year 8.

The 2012 screening figures from Reception and Year 5 class children showed that 23% and 22% respectively were referred for more detailed examinations due to possible active decay.

The only information we have on 12 year old children is from screening. In a 2011 screening by HSSD's children's dental service, 37% of pupils screened were found to have untreated dental conditions, compared to 33% in a similar 2009 survey. Conditions included decay, orthodontic and periodontal conditions, and trauma. The response rates in both years were low, 46% in 2011 and 44% in 2009. There were large variations in response rates at different schools from 28% to 94%, with the less affluent/academic schools having the lowest response rates. Screenings are not calibrated, so there are potentially significant biases in using data for monitoring trends between years, or in comparing schools.

### **Risk Factors**

We currently do not collect data on the amount and frequency of consumption of sugars, one of the key risk factors for dental decay and other chronic disease.

### **Adults**

There have been no surveys of adult dental public health in Guernsey.

Results of UK studies may provide an indication of population dental health in Guernsey. The Adult Dental Health Survey for England and Wales 2009 was the fifth in a series of national dental surveys that have been carried out every ten years since 1968. The survey showed that major improvements over time were evident in all age groups up to age 45 years, but that dental health varied with social class. Ninety-four percent had at least one natural tooth; the mean number of teeth was 26, but this varied hugely with age. More than half of those aged 85 years and over had some natural teeth. However, only 10% of adults were judged to have excellent oral health and only 17% had very healthy periodontal (gum) tissues. Thirty-one percent had obvious tooth decay. In 2009, 37% of dentate adults had artificial crowns, with over half the population aged 45-74 with crowns.



In Guernsey, there is anecdotal evidence of inequalities in both dental health and access to treatment. For example, it is generally considered that wealthy adults, and adults receiving supplementary benefit who have their dental care paid for by the Social Security Department (SSD), can receive treatment that those on an average income may not be able to afford. For example, a person on benefit may be able to have a tooth preserved and restored through a root canal therapy and the provision of a crown. This is not automatically the case and payment for the treatment will depend on the position of the tooth, the individual's general dental health and other considerations. But for low income people not on benefit, such treatment is very likely to be beyond their means. This leaves no real option other than having the tooth extracted. Tooth loss can lead to loss of function (molars) or loss of appearance (mainly front teeth) or both. Replacement teeth, either with a denture or implants may be more expensive compared with early intervention to save teeth.

Needs assessments across England have shown that there is a large amount of unmet need in vulnerable older adults, especially in care homes (S White, personal communication). Key challenges for providing dental services will be dealing with the legacy of previous treatment and complex restorative needs, in particular in vulnerable older adults with problems such as dementia (Steele 2009). Health promotion within care homes is really important in the reduction of the number of problems and costs.

Data from our private dental surgeries has not yet been available to assess population dental health in Guernsey and given an indication of dental health need.

### ***Improving Population Dental Health and Reducing Health Inequalities***

#### ***Health Promotion Programmes***

Guernsey's apparent improvement in dental health for 5-year-olds in the past decade may have been, in part, down to dental health promotion programmes put into place once it was recognised that population dental health was deteriorating. Analysing the results by school showed that in 2002 there were stark variations in disease experience between schools.

For example, more than twice as many children had dental decay in the dentally least healthy schools compared with the healthiest. Following the implementation of specific, evidence-based, dental health interventions, not only did the overall level of dental health improve, but also the inequalities evident between schools were lessened.



Following the 2002 survey the focus of preventative programmes locally was directed to those schools with the poorest dental health. The catchment areas for these schools received targeted dental visits from the health visiting team. These took place when the child was 6 months, 18 months and, initially, 30 months old.

Then, at age 3½ years the child (with a parent) would be seen by a dentist at the developmental check. These occasions provided opportunities for specific dental advice together with a free sample for the parent (toothbrushes, toothpaste and feeding cups). Similar interventions now form part of the Childsmile programme in Scotland.

Key messages in Guernsey's Health Promotion programme are that the consumption of sugary foods should be restricted to mealtimes (a maximum of four times a day). In other words, the occasional sweet treat or sugary drink is fine, if it is eaten with other food. Local health policies incorporate oral health using the common risk factor approach for health promotion (Figure 10).

The "Future 2020 Vision of the Health and Social Services System" urges a focus on prevention of disease, promotion of self-care and independence. The Children's Dental Service has, within existing resources, been increasing its recorded preventative work to individual patients, with the number recorded rising from 390 in 2010 to 1,201 in 2011. These contacts may be within an existing appointment or a standalone appointment. They involve advice on tooth brushing, fluoride toothpaste, dietary advice and regular dental attendance. Preventative fluoride varnish applications rose from 28 in 2010 to 412 in 2011. Preventative interventions need to be sustained, as it is likely that increased preventative work in children will prevent problems and save public and private costs of restorative treatment in the medium and long term.

### *Fluoride Options*

Fluoride is a natural mineral that helps to prevent tooth decay. It works through three main mechanisms; after swallowing, up until the age the tooth erupts the fluoride can be incorporated into the crystal structure through its systemic effect by altering the structure of the developing enamel making it more resistant to acid attack; by local action, helps remineralise the tooth and harden the enamel quality; and reduces the ability of the plaque bacteria to produce acid.

Fluoride toothpaste is a very common intervention to prevent active decay. The higher the concentration of fluoride in toothpaste the higher chance of preventing active decay, but there are maximum recommended levels. Concentrations should be in line with the Evidence Based Preventive Toolkit produced by BASCD (Department of Health 2009). Both children and adults are encouraged to use fluoride toothpaste.



Fluoride varnish is effective in the prevention of decay in primary and permanent teeth. It is advised that it should be applied to teeth at least twice-yearly for pre-school children assessed at being at increased risk of dental decay (SIGN 2000,2005). The varnish sets quickly and has for some a pleasant taste and a fruity smell. It slows down the development of decay by stopping demineralisation. It is easy and quick to apply. However, application of fluoride varnish is carried out by health professionals so is not a cheap option (Quinonez 2006). It is something Guernsey would need to consider very carefully before introducing more widely. If public funds are available for this treatment, they should be targeted initially to the high risk population where it may prevent more than half of the tooth decay. In private practice it would help prevent dental caries if dentists applied this intervention more widely.

Fluoridation of the public water supply as an options is considered effective at improving population dental health and reducing dental health inequalities, however it has been controversial. It has been concluded that to be economic water fluoridation should be targeted at those districts with mean decayed, missing and filled teeth at age 5 years greater than 2.0, and with water supply schemes covering around 200,000 residents (Birch 1990). On this basis fluoridation of the public water supply in Guernsey would not be an option.

### *Children's Access to Services*

In January 2006 the Children's Dental Service ceased to be one of open access and only provides care to children fulfilling a strict criteria for referral. As other children must obtain their care in the private sector this has contributed to inequalities in access to dental healthcare.

Some families beyond the higher income thresholds for Supplementary Benefit (SB) or the means tested Medical Expenses Assistance Scheme for families on low incomes who do not qualify for Supplementary Benefit, may not be able to afford the fees for dental check-ups for their children, or for restorative care when it is required.

The issue of working poor families was recognised in the Children and Young People's Plan 2011-2013. It is likely that some children who need treatment do not have access to either the public or private service, because of a "*poverty trap*".

There is also anecdotal evidence that some parents are not taking children for regular check-ups anticipating that, when their child's dental health deteriorates, they will be offered free care and those who do, may have to delay treatment following the check-up until such time as they feel they can afford it.



The reactive nature of the Children's Dental Service, (between 2006 and 2011) dealing with decay once it has occurred, rather than having a focus on prevention, gives the wrong message to families in Guernsey.

### *Adult Access to Services*

As noted above, we have little data on the use of dental services by adults.

However, dentists and Social Security Department Staff have advised anecdotally that some local residents, who have an income above a level when they are eligible for benefits, cannot afford standard dental restorative treatment such as crowns for lost teeth, and therefore undergo unnecessary extractions. In contrast the better off can afford such treatment, and those on supplementary benefit have the treatment paid for. While the situation may not be as simple as this in all cases, because some people who could afford treatment may not opt for it, it seems unfair that in the twenty-first century some local residents are denied access to standard restorative dental treatment because of affordability.

Given poor dental health is more likely in less affluent members of society, then these members of our society have the double health inequality of worse dental health and a lack of access to basic restorative treatment.

### *Health and Care Professionals*

It is important that all health and social care professionals are able to give evidence based and consistent messages on common risk factors, which should include key oral health specific messages such as healthy weaning through eating of good meals, avoidance of grazing, a maximum of four sugar intakes a day, tooth-brushing techniques and use of fluoride toothpaste, and location of dentists and importance of check-ups.

In addition, it is important that pharmacists should offer advice to customers on toothbrushes, fluoride and promote the use of sugar-free medicine. Prescribers should prescribe, wherever possible, sugar-free medicines, and pharmacists should promote their use.

It is also important to ensure that all nurseries and children's centres and schools have healthy eating/drinking policies e.g. reduce sugary snacks, drinks between meals – water or milk; fruit juice should be taken only as part of a meal.

### *Corporate Power and Social Responsibility*

Corporate public bodies also need to take responsibility for promoting healthy options. Several Government Departments and department funded bodies market unhealthy sugary foods that will impact not only on oral health but wider health.



There is an opportunity for Government to take practical steps to counteract the current perception that high-sugar foods are a necessary component of a normal diet. For example, public buildings could ensure that all vending machines have only healthy options.

The power of corporations is vast. Unfortunately even the recent London Olympic Games has been strongly influenced, with top sponsors such as Coca-Cola, McDonald's, Cadbury's, (Daube 2012) likely to leave legacy of junk food promotion in association with sporting excellence and the Olympic ideals. On island there is limited evidence of corporations such as supermarkets promoting healthy lifestyles, but tremendous potential for them to do more.

The marketing campaigns of multinational corporations are harming our physical, mental and collective wellbeing (Hastings 2012). Evocative promotion, widespread distribution, perpetual new product development and seductive pricing strategies are used to encourage unhealthy consumption.

The consequence has been the inevitable escalation of lifestyle diseases. The problem with corporations is that the customer frequently comes second to needs of the shareholder.

An example of the exploitation of children for profit is given, for example, in one leading marketing text book (Foxall and Goldsmith 1994), who advise that children are important to marketers for three key reasons; they present a large market in themselves because they have their own money to spend; they influence their parents' selection of products and brands; they will grow up to be consumers of everything; hence marketers need to start building up their brand consciousness and loyalty as early as possible.

Commercial organisations can improve oral health through promoting and producing sugar-free food and drinks, and to enable the public to make informed choices through clearer labelling.

Popular soft drinks such as Coca-Cola, energy and sports drinks can also damage the enamel of teeth because of their acidity. They erode or thin out the enamel of the teeth, leaving them more susceptible to decay and sensitivity.

### *Individual Advice*

Individuals can improve their own and their families dental health by not eating sugary foods between meals, and drinking tap water and milk rather than sugary drinks during the day. Not only will drinking tap water improve dental health, but it will save money and help the environment through reduction of the transport of soft drink and the water from plastic bottles.





To prevent dental erosions and protect teeth, acidic drinks should be avoided. If they are drunk then their use should be minimised and the mouth rinsed with tap water immediately afterwards, to dilute the acid. Tooth brushing immediately after drinking acidic drinks is not advised as this could spread around the acid.

### *Fiscal Measures to Improve Dental Health*

The main cause of the commonest disease, active decay, is down to the frequency of consumption of sugary foods and drinks, and “junk food”. As noted above much of this junk food consumption is stimulated by clever marketers working for multi-national companies. As well as dental disease these products add significantly to obesity levels currently seen

Taxes on tobacco have been an important method to control consumption as well as raising money for Governments. Therefore there is a growing depth of opinion that taxation should also be used as one means to control sugary drinks. “Adam Smith, the father of modern economics, anticipated a policy linking tobacco to sugar sweetened drinks without even knowing it:

*“Sugar, rum and tobacco are commodities which are nowhere necessities of life, which are become objects of almost universal consumption, and which are therefore extremely proper subjects of taxation.”* (Kelly et al 2009)

“Both obesity and tobacco use are major risk factors for chronic disease and premature death, both generate significant health care costs, both involve aggressive marketing campaigns to consumers by industries that reap significant financial rewards, both are disproportionately represented among lower socioeconomic groups, both carry a social stigma, and both are difficult to treat clinically.” (Englehard 2009).

Taxes on soft drinks have been around for many years (Public Policy Advocacy 2009). A sugar-sweetened drink tax would be aimed at changing the price of unhealthy, energy-dense drinks in an effort to shift consumption patterns toward a healthier diet. The tax should discourage consumption of sugar-sweetened drinks, and promote consumption of healthier beverages, such as water and low-fat milk. Arkansas imposes a tax on all distributors, wholesalers, and manufacturers of soft drinks (Public Policy Advocacy 2009). Taxes on sugar-sweetened drinks are being seriously considered in cities in California (Reuters 2012), with the dual purpose of improving both population health and public financial health. Taxes on sugar-sweetened drinks could work in Guernsey, raising income that could be used for preventative programmes, thereby achieving a double yield on the measure.





### *Regulatory measures*

In conjunction with fiscal measures, consideration should be given to evidence-based and reasonable regulatory measures to protect children and adults such as proper labelling on sugary and acidic drinks (*"diet drinks are still acidic and a problem"*) to advise they are only recommended with meals, and advertising that achieves the same.

### *Trauma*

If a tooth is knocked out (avulsion) it should be put straight back in, or put in milk and a visit to the dentist made as soon as possible. Preventative measures are also important and gum shields should be used in sports where there is a risk of tooth loss. Every school and sports club should have first aid policy on tooth loss.

### *Further Work in Dental Public Health*

This section highlights aspects of the important issue of dental and oral public health, but is not intended to be a comprehensive overview of the speciality.

Aspects not covered in this MoH Report are adults and children with special needs, orthodontics (dental and skeletal anomalies), and dental public health in Alderney. There has also been a recent review of the Children's Dental Services, the outcome of which is awaited.

Dental and oral health are already being considered as a future workstream within the States 2020 Health Strategy. It would be helpful if a comprehensive needs assessment was undertaken building on Guernsey links with the dental public health specialist service in the Southern Region of the NHS

**Recommendation 22:** A dental and oral health needs assessment is carried out, from which an oral and dental public health improvement strategy is developed and implemented.

**Recommendation 23:** Improve knowledge of local dental public health epidemiology, with continuation of periodic surveys of five year olds, surveys of twelve year children to monitor progress against WHO target, and use of local Guernsey Dental Association practice data to examine access to care, barriers to care, adult dental health including those with disabilities, and dental public health inequalities.



**Recommendation 24:** Develop policies and protocols for dental health in children's services such as nurseries, nursing and residential homes, and in the public sector such as ensuring public vending machines also provide healthy options, and in local sports association and clubs who should have policies of not promoting acidic energy or sports drinks.

**Recommendation 25:** Further develop preventative policies and programmes using the common risk factor approach, including targeted preventative work for higher risk early years children, and provision of evidence-based interventions in schools such as the Brushing for Life programme.

**Recommendation 26:** Counteract dental health inequalities, with children and adults with equal need having equal access to preventative and restorative interventions.

**Recommendation 27:** The consumption of acidic drinks such as popular soft drinks, and energy drinks, etc, should only be drunk with meals to prevent erosion of teeth. In between meals tap water or milk should be consumed.

**Recommendation 28:** Corporate organisations show increased responsibility and use their power to promote healthy lifestyles and products to our citizens.

**Recommendation 29:** SoG to consider policy options of taxation of sugar sweetened drinks to reduce consumption, provide funds for prevention and increased tax revenues, and to consider increased regulation of marketing of such drinks

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## REFLECTIONS OF THE RETIRING STATES ANALYST

David Mortimer retired from the States Analyst Laboratory in May 2011, after a long and distinguished service for the States of Guernsey. David joined the laboratory in 1979 when it was part of the States Water Board situated under the dam in St Saviours. In 1986, responsibility for the laboratory was transferred to the Board of Health and was re-located to the Old Girls Grammar School. The laboratory then moved to purpose built accommodation at its current site in Longue Rue, St Martins, in 2005.

At St Saviours, apart from a gas chromatograph used for pesticide analysis, equipment was very simple and computers were not available and some measures had to be calculated from graphical output with a ruler. This began the process of making test tube based tests redundant. The laboratory now has an auto-analyser system based on what is used in pathology laboratories using very small volumes of sample and reagents. It is fully automatic with the operator just needing to load samples and reagents, and it performs analysis more quickly, accurately and precisely than a manual analysis, generates very little waste (and doesn't get tired so it can work all night!)

The same evolution has occurred in microbiology, particularly for coliforms and E-coli moving from multiple tube labour intensive test tube methods through membrane filtration methods through to the present systems, which uses the demonstration of the presence of specific enzymes to identify these organisms, although older methods are still used for other organisms.

From 1997 under David's leadership, the laboratory has introduced a comprehensive quality management system culminating in accreditation by the UK Accreditation Service (UKAS) as operating to the requirements of ISO 17025. Because of this, the laboratory is as confident as it can be that it produces results that are "correct". The laboratory dedicates 20% of its effort to quality control/assurance and is the only large laboratory accredited by UKAS in the Channel Islands.

During the past few years water quality analyses for Guernsey Water has assumed greater and greater importance as the laboratory assists Guernsey Water in meeting the challenges associated with the implementation of new European and UK based quality standards.



The police and customs side of laboratory work has also changed significantly as the range of drugs being abused has changed. David reflected earlier in his career that he saw cannabis, cocaine, amphetamine with some heroin and barbiturates, the last of which are rarely seen. Ecstasy also appeared but until recently little else was seen. Recently, the so called emerging drugs of concern have exploded onto the scene and brought huge analytical headaches with significant changes for legislation.



## OTHER PUBLIC HEALTH HIGHLIGHTS 2011

A very wide range of services and activities influence the health of the public in Alderney and Guernsey.

However, a range of public health services are either directly managed or commissioned through the public health directorate. Some brief highlights of these unit's achievements and future developments and challenges are included below.

### *Clinical Coding Unit*

The Unit operates a system of coding of clinical information from hospital admissions. This enables later analysis. The entire exercise is very important for health needs assessment and in helping clinicians and managers maintain and improve the quality of their services.

#### *Achievements:*

1. Coded just under 15,000 hospital episodes
2. Absorption of bowel cancer screening coding
3. Resolution of errors associated with new clinical information system

#### *Future developments and-challenges:*

1. International Classification of Diseases Version 11 to be rolled out in 2012.
2. Planning for staff retirements.

### *Epidemiology/Public Health Intelligence*

Epidemiology and public health statistical analysis is the cornerstone of public health research. This is a key service to help maintain health, control diseases and as a foundation for health needs assessment.

#### *Achievements:*

1. More efficient and effective processes have been introduced which enable the electronic transfer of information registered about a deceased person, from both the Alderney and Guernsey Greffe, for the production of the islands' mortality statistics.



2. A joint audit of death coding with the Office of National Statistics in England, has led to outsourcing of death coding. This will improve both the quality and efficiency of coding. Collaboration with Jersey Public Health Directorate, led to Jersey adopting a similar process to Guernsey. Changes will provide greater assurance that comparisons between Guernsey, Jersey and England's death statistics are valid.
3. In collaboration with the Clinical Psychology Service, the publication of the first Guernsey Emotional Wellbeing Survey 2010 was a landmark study for the island. This survey provides baseline data for the States to monitor future population well-being and mental health.
4. Joint research with the Chest and Heart Unit on their unique dataset, led to production of a paper on secular trends in Body Mass Index and Smoking Status of First-Time Visitors to Guernsey Chest and Heart, 1974-2010. This work highlighted the significant decrease in smoking prevalence, and increase in obesity prevalence over this period.
5. Improved processes of reporting of cancer data to South West Cancer Registry will result in improved comparability of local data with Jersey and the mainland.

*Future Developments:*

1. Review of abortion statistics and reporting
2. Joint work with Education Department on Young People's Survey
3. Development of 2013 Adult Lifestyle Survey
4. Supporting analysis for revision of smoking strategy
5. Joint study with Environmental Health, Infection Prevention and Control Unit, England and Jersey on the apparently relatively high rate of Campylobacter infections reported in the Channel Islands (most frequently reported infection to Medical Officer of Health)

**Infection Prevention and Control Unit**

There has been a steady increase in the number of bacteria which can cause infections which are resistant to multiple antibiotics, and in particular those that are able to inactivate most penicillin and cephalosporin antibiotics, the mainstay of antibiotic therapy. This is a global challenge which is reflected locally.





Each year in the European Union alone, over 25 000 people die from infections caused by antibiotic-resistant bacteria (WHO 2011). Extensive use of antibiotics in rearing livestock and fish has been a major cause of this resistance (WHO 2011).

Infection prevention and control may often be taken for granted, but it remains a vital service in maintaining the well-being of local people. Good infection control depends on many elements, including the professionalism of all health care staff who keep up to date with and follow policy and procedures, members of the public and patients following advice, and environmental health and veterinary controls in the community.

*Achievements:*

1. Surveillance of Methicillin resistant *Staphylococcus aureus* (MRSA) infections and colonisations, *Clostridium difficile* cases in both hospital and the community, Caesarean section surgical site infections, flu-like illness attending GPs, and diseases statutorily notified to the Medical Officer of Health.
2. No cases of MRSA bacteraemia were recorded in 2011, and there has been a steady reduction year on year of MRSA colonisations from 41 in 2005 to 9 in 2011. Over this period MRSA screening has been extended from pre-operative orthopaedic screening, to pre-operative other surgical screening, to all patients who have been in hospital within the previous six months, to all known MRSA patient with negative status, to all renal patients on a three-monthly basis, and then to all long term mental health and elderly care ward patients on a three-monthly basis.
3. Completion of Caesarean Section surgical site infection surveillance for the 180 sections performed in 2011. In 6% of cases (11) an infection was recorded, all post-discharge. Infection was associated with a higher Body Mass Index. This work will provide a baseline for future surveillance.
4. No outbreaks of MRSA or *Clostridium difficile* were recorded in 2011. Eight outbreaks of Norovirus were managed, 3 in HSSD premises and 5 in residential or nursing homes.
5. Educational sessions for healthcare staff remain a key activity. Over 1,000 HSSD staff were trained, and in addition, training was given to Nursing and Residential Homes, and St John's Ambulance and Rescue staff.





6. In addition the extensive infection control audits undertaken in HSSD premises, over the last four years, Nursing and Residential Home infection Prevention and Control audits have been undertaken every two years, and Essence of Care standards introduced.

*Future Developments:*

1. Joint work between the Infection Control Unit and local dentists.
2. Introduction of high impact intervention care of urinary catheters remains outstanding.
3. Introduction of new infection control audit tool, following its recent publication in the UK.
4. Increase compliance with hand-washing audits, and Modern Matron annual reports
5. Improvement of update of staff flu vaccinations (in collaboration with occupational health)

<b>Recommendation 30</b>	The Guernsey Dental Association to produce an infection control policy within a wider clinical governance policy. This policy should include internal and external assurances that infection control standards have been met. The Infection Control Unit to provide support, guidance and external assurance to the process.
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**Sexual Health Unit**

The unit provides a range of diagnostic, treatment and preventative services for sexually transmitted infections, HIV and hepatitis.

*Achievements:*

1. The unit meets a wide range of service quality standards, including in 2011 an uptake of 85% HIV testing in patients attending for a first sexually transmitted infection screen, up from 48% in 2008.
2. Absorption of an increase in hepatitis C attendances from 100 to 300 between 2009 and 2011, and of hepatitis B attendances from 10 to 80 during same period.



3. Meeting a range of national and local standards for the HIV and other services.
4. Continuing to work with English Centres of Excellence in HIV and hepatitis.
5. Provision of HIV study day for all clinical staff

*Future Developments:*

1. Progress is ongoing to work towards the establishment of a Guernsey Chlamydia Screening programme following the recommendation in the 112<sup>th</sup> MoH report. It is estimated that 5-10% of sexually active women and men between 20 and 24 may be infected. In many cases there are no symptoms. Complications include pelvic inflammatory disease which can lead to miscarriage, ectopic pregnancy and infertility, and in men to inflammation of the testes. The evidence is this would be an “invest to save” programme, i.e. the costs of the programme will be outweighed by future savings in health problems prevented.
2. The majority of services users with newly diagnosed hepatitis C in Guernsey acquire their infection through injecting drug use. There is some evidence that transmission is not occurring through needle-sharing but through other aspects of the “works” e.g. sharing filters and spoons. Further research is recommended to identify the mode of infection to enable control of on-island transmission.
3. Early diagnosis of HIV is associated with a much greater chance of a good outcome. Late diagnosis is still a problem on-island. An aim is to reduce late diagnosis. To do so it is important to continue to reduce stigma associated with HIV, and to encourage testing when appropriate.

### **Clinical Audit and Quality**

*Achievements:*

1. HSSD Board approved a clinical and social care audit strategy.
2. Participation in National Audit of Falls and Bone Health.
3. Participation in National Hip Fracture database. Princess Elizabeth Hospital ranked near the top on a number of criteria, which reflected well on the care delivered to patients with this common problem.



4. Ongoing participation in in-hospital cardiac arrest and medical emergency team calls indicated that local responses exceeded standards.
5. In 2011, 17 clinical audit projects formally registered.
6. Continued assessment and ratification of clinical policies, procedures and guidelines.
7. An audit of deep venous thrombosis led to less ultrasound scans, reduced costs and improved patient experience by a reduction in visits to the radiology department.

*Future developments and challenges:*

1. Audit is time-consuming, and with resource constraints and clinical priorities, many clinicians struggle to find time to allocate to data collection and entry.
2. The audit strategy mandates that where possible Guernsey participates in the National Clinical Audit and Patient Outcomes Programme in the UK, to enable us to have comparative data. In the future it is likely that subscriptions will be required to cover the cost of participation.
3. A challenge for HSSD is to undertake valid baseline assessments about compliance and non-compliance with NICE guidance.
4. There is a need to improve the accessibility and user-friendliness of HSSD's policy software, "Poliplus"

**Patient Safety/Clinical Risk Unit**

The Patient Safety and Clinical Risk Unit aim to help health and social care providers identify, record, and mitigate risks. Where appropriate the unit will carry out investigations of incidents at arms-length from providers.

*Achievements:*

1. The number of incidents reported was 2358, down 2% from 2011. It is important that staff report incidents, as these are important to identify and mitigate risks to safety.
2. Slips and falls remain by far the largest incident group with 986 reported in 2011, down 3% on 2010. Seven new falls beds were purchased in 2011, and further actions are planned (see below).



3. There have been several serious untoward incidents investigated, lessons from which have been used, where appropriate to increase safety further.
4. As a consequence of experience of investigations, a new Integrated Risk Management Policy has been produced and adopted.
5. Introduction of the World Health Organisation Safe Surgery Checklist, and other measures to increase safety in the operating theatre.
6. Production of risk data on reporting of information for use in departments, and training of several hundred staff on risk.

#### *Future developments and challenges*

1. Participation in National Falls Audit.
2. New Falls policy to be developed and released aimed to reduce falls.
3. Develop training on human factors in risk.
4. Measure safety culture, as one factor for potential improvement.
5. Increase in patient and service user involvement in feedback to services offered by HSSD

#### **Health Promotion Unit**

##### *Achievements:*

1. Implementation of Phase 1 of States Obesity Strategy, including the appointment of a new specialist school nurse for weight management, a community dietician and recruiting 8 new Health Trainers.
2. Appointment of replacement HSSD/Education jointly funded Personal, Social and Health Education Advisory Teacher and training programme for all of the schools PSHE co-ordinators.
3. Support of St Sampson Infant School and Notre Dame Primary School to achieve National Healthy School Standard.
4. Part-time Quiltine advisor appointed to work with hospital staff and schools.
5. Development of materials to support successful bowel screening pilot.



6. Support of pilot child measurement study in two local schools, measuring over 200 children.
7. Development of policy for smoke free grounds for HSSD
8. Over 200 people had their blood pressure and cholesterol checked on Healthy Hearts day event.
9. Staffed HSSD's 2020 Vision involving stands at the North Show, Healthy Hearts Day, Guernsey Mum's event and Market Square, encouraging members of the public to have their say on the Strategy's principles.

#### *Future Developments and Challenges*

1. Supporting smoke-free prison.
2. Contribute to development of States 2013 Healthy Lifestyle Survey.
3. To increase number of schools achieving National Healthy School Standards.
4. To complete child injury prevention strategy (injury is the most important cause of ill health and premature death in children).
5. Major challenge will be controlling the obesity epidemic and the health and economic consequence, when the States were unable to afford Phase 2 of the Obesity Strategy.
6. Improve mental health promotion.
7. To support the next Tobacco Strategy for 2014-2020.

#### **States Analyst**

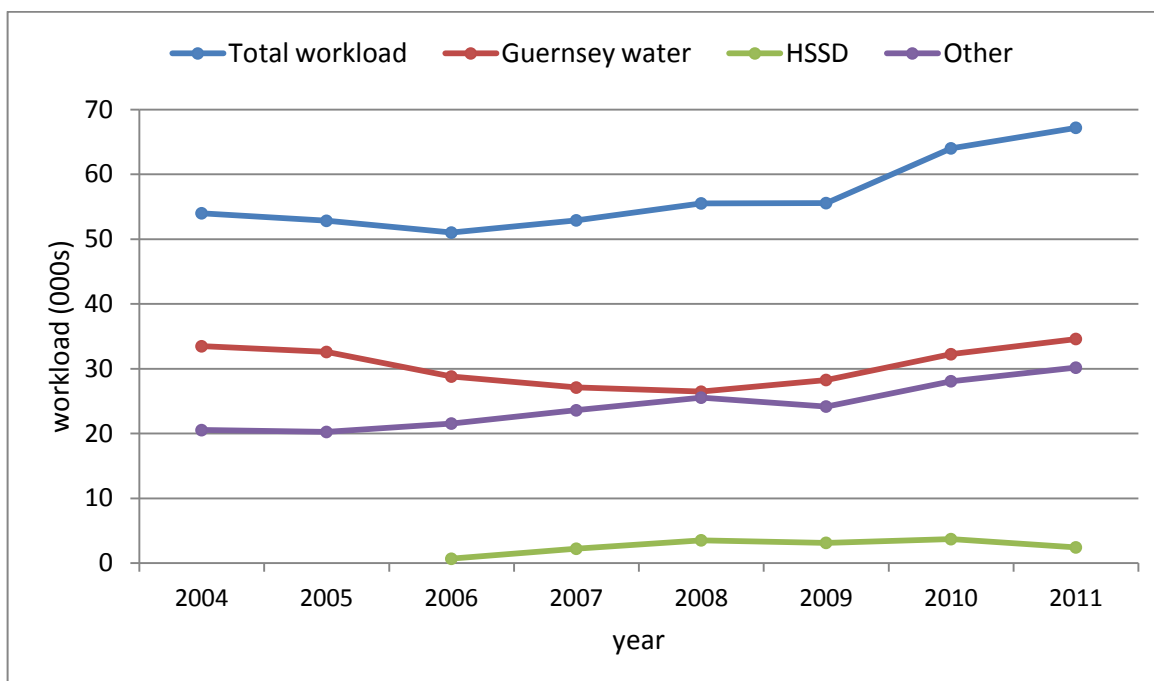
##### *Achievements:*

1. Laboratory's quality assurance system accredited by UK Accreditation Service, This accreditation provides clients of the service which confidence in the quality of the services provided by the laboratory.
2. Gas Chromatograph-Mass Spectrometer was introduced in August 2011. Urgent samples can now be turned around within an hour if needed. This is already proving a major tool in protecting the public against drugs, with two Emerging Drugs of Concern previously unreported in the UK being discovered in Guernsey using this equipment.



3. Major increase in Legionella testing, which will have reduced risks locally.
4. The laboratory had its busiest year, yet with nearly 67,000 workload units recorded up from about 64,000 in 2010), reflecting an increase in work for other clients, particularly the private sector and Guernsey Waste Water (see graph Figure 17).

Figure 15 Changes in Workload



### *Future Developments*

1. The Laboratory Information Management System will be introduced which will reduce the requirement for administration time.
2. To increase private Legionella testing to provide greater public protection

### **Environmental Health**

The Office of Environmental Health and Pollution Regulation delivers Environmental Health services for the Health and Social Services Department (HSSD) so is directly aligned to HSSD and is part of the public health discipline. All 'back room' services for the OEHPR are delivered through HSSD.



It is one of the few services that is entirely based in statute and dates back to the nineteenth century when the then 'Inspector of Nuisances' were appointed to work with the Medical Officer of Health in controlling disease and poverty in the community.

Over the last century the service has evolved to provide a modern environmental health and pollution regulation service, ensuring that impacts on the health of the public, eco systems and the environment are measured, monitored and when necessary mitigated to protect, maintain and improve public health.

In this context, the environment includes food, water, air, land and the built environment including houses, facilities used for leisure and work and the infrastructure.

#### *Achievements and Successes*

1. The service was delivered within budget.
2. All staff maintained professional membership of professional bodies in the UK.
3. In 2011 staff members were invited by other States departments to provide technical and scientific expert advice on a range of subjects e.g. PFOS contamination, planning consultation, licence applications for the airport development etc. These were delivered successfully.
4. The new IT database was successfully installed and provided an improved framework for data collection and reporting.
5. The joint arrangement with the States of Jersey was formalised through a joint contract, so that the DEHPR acts as the Channel Islands Joint Strategic lead for Environmental Health. A number of joint initiatives around law drafting, shared policies and procedures have been undertaken and there are more in the pipeline.
6. Consultation services and the development of new systems in a changing environment were significant achievements in 2011.



Table 4 Environmental Health Statistics

Topic	Number
Total complaints, enquiries and routine inspections	2,069
Seawater sampling undertaken at 32 coastal sites and submitted for analysis. Taken on behalf of Environment Dept under contract for bathing beach survey.	484
<ul style="list-style-type: none"> <li>• Guide pass 206</li> <li>• Mandatory pass 36</li> <li>• Fail 9</li> </ul>	
Shellfish samples were taken for the classification of harvesting areas.	38
Leachate samples	90
Pest Control visits	353
<ul style="list-style-type: none"> <li>• Rat infestations 282</li> <li>• Mice, Ants, Bedbugs, Cockroaches, Fleas, Weavels, Wasps etc 71</li> </ul>	
Domestic water samples	44
<ul style="list-style-type: none"> <li>• Mains water 14</li> <li>• Boreholes and wells 30</li> </ul>	
Complaints requiring interventions	608
<ul style="list-style-type: none"> <li>• Commercial bonfires 68</li> <li>• Domestic bonfires 74</li> <li>• Air Quality 1</li> <li>• Dust, Effluvia etc 36</li> <li>• Smoke not Bonfire 11</li> <li>• Drainage and Sanitation 45</li> <li>• Light Nuisance 4</li> <li>• Accumulations 31</li> <li>• Other Nuisances 58</li> <li>• Housing Conditions 55</li> <li>• Commercial Noise 135</li> <li>• Domestic Noise 81</li> <li>• Smell Nuisance 9</li> </ul>	
Communicable diseases requiring intervention	132
<ul style="list-style-type: none"> <li>• Campylobacter 109</li> <li>• Cryptosporidium 3</li> <li>• E coli 0157 5</li> <li>• Giardia 3</li> <li>• Salmonella 8</li> <li>• Staphylococcus aureus 2</li> <li>• Shigella 2</li> </ul>	





Food Premises Inspections <ul style="list-style-type: none"><li>• Premises inspections</li><li>• New registrations</li></ul>	416 84
Food complaints <ul style="list-style-type: none"><li>• Food Unfit/Labelling etc</li><li>• Premises Complaints</li></ul>	83 38 45
Consultations – planning/building control - detailed responses	83
Consultations – licensing - detailed responses	48
Joint strategic leadership for EH with Jersey <ul style="list-style-type: none"><li>• Joint work on Housing and health</li><li>• Food legislation drafting</li><li>• Contaminated land</li><li>• Air quality</li><li>• Nitrates in drinking water</li></ul>	
Air Quality monitoring <ul style="list-style-type: none"><li>• 4 real-time analysis sites, NO<sub>2</sub>, SO<sub>2</sub>, CO, O<sub>3</sub>, PM<sub>10</sub></li><li>• Monthly changeover of NO<sub>2</sub> diffusion tubes at 9 sites</li></ul>	



### Guernsey and Alderney deaths 2011, by Gender and Cause.<sup>3</sup>

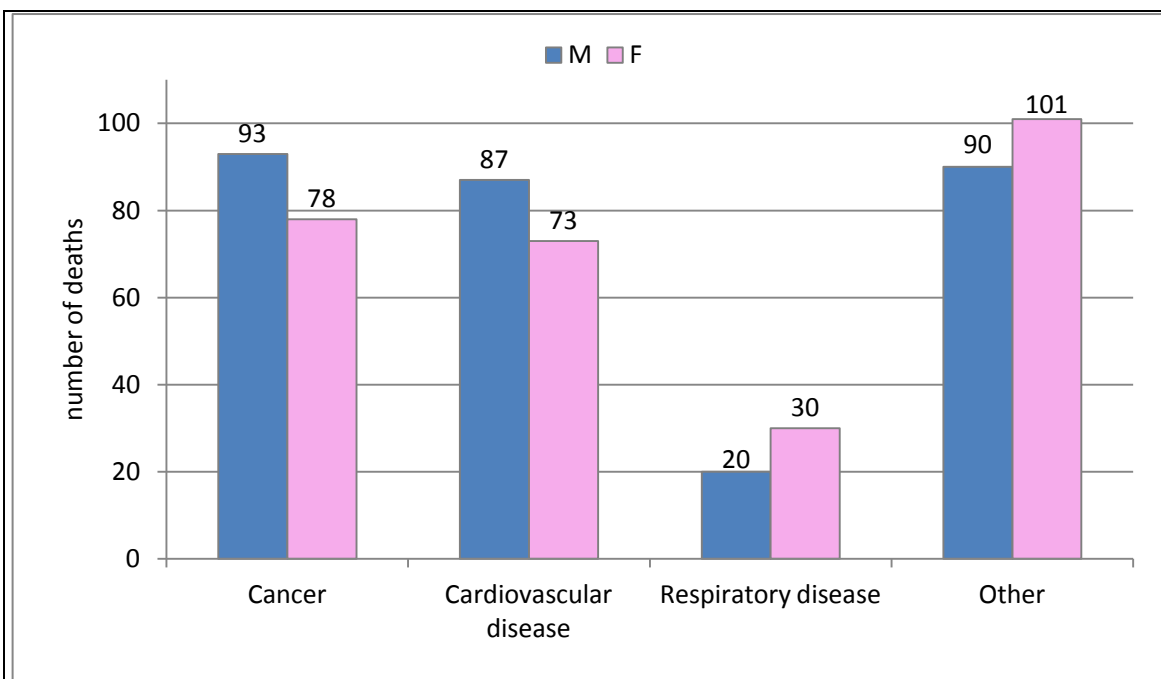
	Number of deaths			
<u>CAUSE OF DEATH (ICD-10 codes)</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>	<u>% of all deaths</u>
Cancer (C00-C97 or D00 to D48)	93	78	171	30%
Cardiovascular disease (I00-I52 or I60-I69)	87	73	160	28%
Respiratory disease (J00-J99)	20	30	50	9%
Other (any other code not included above)	90	101	191	33%
<b>Total</b>	<b>290</b>	<b>282</b>	<b>572</b>	<b>100%</b>
<u>CANCER TYPE</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>	<u>% of all deaths</u>
Oesophagus (C15)	10	3	13	2%
Colon (C18)	5	6	11	2%
Pancreas (C25)	6	3	9	2%
Bronchus & lung (C34)	18	16	34	6%
Breast (C50)	0	5	5	1%
Prostate (C61)	17	0	17	3%
Other cancers	37	45	82	14%
<b>Total</b>	<b>93</b>	<b>78</b>	<b>171</b>	<b>30%</b>
<u>CARDIOVASCULAR DISEASE TYPE</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>	<u>% of all deaths</u>
Acute myocardial infarction (I21)	31	11	42	7%
Chronic Ischaemic heart disease (I25)	18	12	30	5%
Cerebrovascular diseases (I60-I69)	19	26	45	8%
Other cardiovascular diseases	19	24	43	8%
<b>Total</b>	<b>87</b>	<b>73</b>	<b>160</b>	<b>28%</b>

<sup>3</sup> Includes stillbirths.



<u>RESPIRATORY DISEASE TYPE</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>	<u>% of all deaths</u>
Pneumonia (J18)	7	8	15	3%
Emphysema (J43)	2	1	3	1%
Chronic obstructive pulmonary disease (J44)	6	13	19	3%
Other respiratory diseases	5	8	13	2%
<b>Total</b>	<b>20</b>	<b>30</b>	<b>50</b>	<b>9%</b>
<u>OTHER CAUSES</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>	<u>% of all deaths</u>
Unspecified dementia (F03)	10	25	35	6%
Senility ('old age') (R54)	5	9	14	2%
Chronic renal failure (N18)	3	4	7	1%
Deaths where an inquest verdict of suicide was returned (In 2011 X70 and X78)	7	2	9	2%
Accident deaths (V01-X59)	13	8	21	4%
Other 'other causes'	52	53	105	18%
<b>Total</b>	<b>90</b>	<b>101</b>	<b>191</b>	<b>33%</b>

### Deaths by Major Cause Group





## 2011 Vital Statistics by Island

### Guernsey

	M	F	Total	Source
Estimated mid-year population	31025	31890	62915	Policy Council (from SSD)
Live births registered	339	319	658	Grefe
Stillbirths	2	0	2	Grefe
Deaths (all ages)	271	266	537	Grefe
Deaths under age 1	1	0	1	Grefe

### Alderney

	M	F	Total	Source
Estimated mid-year population	1034	1077	2111	Policy Council (SSD)
Births in Guernsey	5	8	13	PEH Births Table
Births in Alderney	0	0	0	Alderney Grefe
Total births	5	8	13	Guernsey and Alderney Grefe
Deaths (all ages)	17	16	33	Alderney Grefe
Deaths under 1 year	0	0	0	Alderney Grefe

### Sark

	M	F	Total	Source
Estimated mid-year population	not known	not known	not known	Sark Grefe
Births in Guernsey	2	0	2	PEH Births table
Births in Sark	1	0	1	Sark Grefe
Total births	3	0	3	Sum of births in Guernsey and Sark
Deaths (all ages)	0	2	2	Sark Grefe

*Note:* Sark and Alderney births in Guernsey are also included in the Guernsey Life Births registered figure.



## **Staff employed within the Public Health Directorate during 2011**

### **Director of Public Health/Medical Officer of Health/Chief Medical Officer**

Dr Stephen Bridgman MBCHB MD MPH Dip Biomech FRCS (Ed) FRCS (Glas) FFPH

### **Deputy Medical Officer of Health (Part-Time)**

Dr Brian Parkin MB BS BSc FRCP MRCGP DRCOG

### **Personal Assistant**

Mrs Yvonne Kaill

### **Clinical Governance Unit:**

#### **Assistant Director Clinical Governance, Chief Nurse (from April 2011)**

Ms Sue Fleming

#### **Clinical Risk Manager/Patient Safety Advisor**

Ms Trish De La Mare Reg. PharmTech, PTQA Dip, FDS Sc MM

#### **Risk Support Officer**

Mrs Jo McGinn

#### **Clinical Audit Nurse**

#### **Clinical Audit and Quality Manager from September 2011**

Mr Brian O'Connell

### **Office of Environmental Health and Pollution Regulation:**

#### **Director of Environmental Health and Pollution Regulation**

Mrs Val Cameron FFPH FCIEH Ch.EHO MREHIS MBA

#### **Deputy Chief Environmental Health Officer**

Mr Tony Rowe MCIEH

#### **Environmental Health Officers**

Mr Tobin Cook MSc CMCIEH

Mrs Jane Cutting GradCIEH

Mr Philip Goodchild MCIEH

Mr Stuart Wiltshire MCIEH

#### **Waste Regulation Officer**

Mr Simon Welch BSc(Hons) Cenv MCIWM CMIOSH AIEMA

#### **Pest Control Officers**

Mr Paul Tostevin

Mr Michael Brache

#### **Secretary**

Mrs Diane Harding

**Epidemiology and Clinical Coding:****Public Health Analyst/Epidemiologist**

Miss Jenny Cataroche MA (Cantab) MSc

**Senior Clinical Coder**

Mrs Margaret Cann, ACC

**Clinical Coder**

Mrs Sue Sheppard

**Health Promotion Unit:****Health Promotion Manager**

Miss Yvonne Le Page BEd (Hons) PgDip (HealthPromotion) FRSPH

**Health Promotion Officer (smoking and heart disease)**

Mrs Gerry Le Roy RGN

**Health Promotion Officer (cancer)**

Mrs Diane Mathews H.Dip

**Health Promotion Officer (obesity)**

Mrs Lynn Spencer HNC

**Resources Officer**

Mrs Stephanie Charlwood

**Secretary**

Mrs Kathryn Hamling (May 2011 onwards)

**Infection Prevention and Control Unit:**

Mrs Elaine Burgess RSCN, ENB329/998, C&G 7307, MSc (Health Sciences)

Mrs Kay Bull RGN, ENB329/998

**Sexual Health Unit:**

Dr Nikki Brink MBChB MMed FRCPATH

Mrs Stella Vile RN

Mr Mauro Sensi RN

Ms Marianne Duquemin BSc Hons PGDip (CBT)

**States Analyst Laboratory****States Analyst**

Dr David Mortimer BA BSc(Hons) PhD Cchem FRSC MCIWEM (until March 2011)

Mr Roland Archer (from April 2011)

Mr Laurence Knight BSc (Hons) Cchem MRSC

Mr Michael Hughes BSc (Hons) MIBiol

Mrs Joanne Alder, BSc(Hons)

Mrs C. Joan Le Tissier HNC

Mr John Bullock

Mrs. Julie Perring



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**HSSD Board:**

Deputy Hunter Adam (Minister)  
Deputy Barry Brehaut (Deputy Minister)  
Deputy Elis Bebb  
Deputy David Inglis  
Deputy Arrun Wilkie

**HSSD Corporate Management Team**

Mr Mark Cooke, Chief Officer  
Dr Stephen Bridgman, Director of Public Health  
Mr Richard Evans, Director of Corporate Services  
Mrs Jacqui Gallienne, Director of Health, Social Care and Nursing Services  
Mr Tom Niedrum, Director of Finance and Performance



## LIST OF RECOMMENDATIONS, GRAPHS AND TABLES

<b>Recommendation 1:</b> Page 18	Health and health equity is explicitly considered in all key Government Policies and Programmes.
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<b>Recommendation 2:</b> Page 21	Further research is undertaken to estimate the number of islanders below Minimum Income Standards
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<b>Recommendation 3:</b> Page 24	Review and implement systems of taxation, benefits, pensions and tax credits to provide a minimum income for healthy living.
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<b>Recommendation 4:</b> Page 24	Health impact assessment of the modernisation of welfare system is carried out, looking at the effect on health, well-being and the economy of reduced poverty levels.
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<b>Recommendation 5:</b> Page 24	Income tax changes should be subject to at least an assessment of their likely health and well-being, and health equity impact.
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<b>Recommendation 6:</b> Page 29	The new health system needs to achieve affordable access to good quality preventative, medical, dental and optometric primary care for all.
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<b>Recommendation 7:</b> Page 32	The States adopt an income inequality measure as a Key Performance Indicator for health equity.
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<b>Recommendation 8:</b> Page 33	Health equity indicators within Guernsey require further development, including using primary care data.
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**Recommendation 9:** Qualitative research is needed on the impacts of health inequities on local people  
Page 33

**Recommendation 10:** Local research is undertaken to assess the health needs of ethnic minorities and migrants  
Page 33

**Recommendation 11:** Guernsey should consider participating in the WHO network of small European jurisdictions that wish to advance health equity.  
Page 34

**Recommendation 12:** Develop jointly agreed policies that improve the availability of social housing for the less well off within a framework of environmental improvement, planning and design which takes into account social networks, and access to goods and services.  
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**Recommendation 13:** Jointly agree policies which improve housing provision and access to health care for both officially and unofficially homeless people  
Page 42

**Recommendation 14:** Jointly agree policies to improve insulation and heating systems in new and existing buildings in order to reduce the impact of fuel poverty and ill health associated with cold and dampness.  
Page 42

**Recommendation 15:** Introduce new housing legislation that will enshrine housing standards that will improve space and amenity to reduce accidents in the home and ensure a minimum standard for all housing in Guernsey.  
Page 42



**Recommendation 16:** Jointly agree initiatives and performance measures that will target resources into the most high risk housing areas to achieve the best health outcomes for the community.

Page 42

**Recommendation 17:** Develop a strategy to increase rates of initiation of and continuation of breast feeding, including appointment of a lead health visitor for infant feeding to lead on policy and practice, support community services to obtain UNICEF baby-friendly accreditation, and develop volunteer peer support in early postnatal period with National Childbirth Trust.

Page 55

**Recommendation 18:** Improve measurement, including introduction of internationally accepted measures of breastfeeding continuation rates, improve Infant Feeding Survey to at least meet the 85% response rate standard, record and monitor mother's reasons for not starting or stopping breastfeeding, and set breastfeeding initiation and continuation rate targets in the States Strategic Plan.

Page 55

**Recommendation 19:** Improved maternity leave and maternity benefits to support mothers continuation of breastfeeding.

Page 55

**Recommendation 20:** Educate children on breast-feeding to ensure they regard it as normal behaviour using a programme such as that developed and used in North-West England, and a media campaign for teenagers.

Page 55

**Recommendation 21:** Improve community support through improved employment practices to enable mothers at work to express and store breast milk, and provision of community facilities such as a quiet breast-feeding room in St Peter Port.

Page 55



**Recommendation 22:** A dental and oral health needs assessment is carried out, from which an oral and dental public health improvement strategy is developed and implemented.

Page 73

**Recommendation 23:** Improve knowledge of local dental public health epidemiology, with continuation of periodic surveys of five year olds, surveys of twelve year children to monitor progress against WHO target, and use of local Guernsey Dental Association practice data to examine access to care, barriers to care, adult dental health including those with disabilities, and dental public health inequalities.

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**Recommendation 24:** Develop policies and protocols for dental health in children's services such as nurseries, nursing and residential homes, and in the public sector such as ensuring public vending machines also provide healthy options, and in local sports association and clubs who should have policies of not promoting acidic energy or sports drinks.

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**Recommendation 25:** Further develop preventative policies and programmes using the common risk factor approach, including targetted preventative work for higher risk early years children, and provision of evidence-based interventions in schools such as the Brushing for Life programme.

Page 73

**Recommendation 26:** Counteract dental health inequalities, with children and adults with equal need having equal access to preventative and restorative interventions.

Page 73

**Recommendation 27:** The consumption of acidic drinks such as popular soft drinks and energy drinks, etc, should only be drunk with meals to prevent erosion of teeth. In between meals tap water or milk should be consumed.

Page 73



**Recommendation 28:** Corporate organisations show increased responsibility and use their power to promote healthy lifestyles and products to our citizens.  
Page 74

**Recommendation 29:** SoG to consider policy options of taxation of sugar sweetened drinks to reduce consumption, provide funds for prevention and increased tax revenues, and to consider increased regulation of marketing of such drinks  
Page 74

**Recommendation 30:** The Guernsey Dental Association to produce an infection control policy within a wider clinical governance policy. This policy should include internal and external assurances that infection control standards have been met. The Infection Control Unit to provide support, guidance and external assurance to the process.  
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## **Appendix 1** Technical Note on Guernsey's children dental surveys

Surveys were undertaken using the criteria set by the British Association for the Study of Community Dentistry (BASCD). Dentists undertaking the surveys are trained and calibrated so that data between areas are comparable, ie dentists diagnose decay in the same way. In the 1989 survey, the criteria BASCD used for "decay" were stricter, and led to underscoring in the 1989 survey, so the improvement between 1984 and 1989 may be an artefact of the methods used.

The 1984 and 1989 surveys were a sample drawn from the target population, whereas all subsequent surveys attempted to examine the whole 5 year old population. These surveys were carried out by Birmingham School of Dentistry. All surveys up to 1999 were carried out using "negative" consent. Parents were informed of the impending school dental survey and were given the opportunity of withdrawing their child. Very few parents withdrew children. Surveys from 2002 onwards used positive consent where parents had to "opt in". In 2002 only children in which a consent form had been returned were examined, which was about 75% of children. In later surveys, consent was obtained when the child was 3.5 years old at the development check, and uptake was much greater. In 2002, it is possible that children not examined were more likely to have had more disease. Surveys up to and including 1999 in Guernsey did not include private schools, and UK surveys do not include private schools. In 2011, 96% of the total population of reception year were examined. The 2011 figures relate to the Reception Year, which may include some 4 year old children. In the 1999 survey, Year 1 children (6 years old) rather than reception children (5 years old) were examined. The inferior results in 1999 may partly be explained by this anomaly.



## APPENDIX 2

### Townsend Centre for International Poverty Research Studies (Gordon et al 2001/2), further details.

The Townsend Centre undertook a *Survey of Guernsey Living Standards* (Gordon et al 2001/2). They produced a series of four reports; the Necessities of Life; Views of the People; Poverty and Standard of Living in Guernsey; Anti-Poverty Policies for Guernsey. Although now just over ten years old they give a powerful insight into poverty on the islands that is still relevant today.

The groups identified by the Townsend Centre as being most vulnerable to relative poverty are still recognised in the States Strategic Plan (States of Guernsey (SoG) 2011, p1954).

There are many different ways of measuring poverty (Gordon et al 2002). The Guernsey study, based on UK studies, adopted a definition of poverty based on a standard of living unacceptable to the majority of the population. The validity of the approach rests on a cohesive view of what is unacceptable among different groups in society.

The primary meaning of need is “deprivation”. Townsend distinguishes sub-categories of *material* deprivation, food, health, clothing, housing, household facilities, environment and work, and of *social* deprivation related to family activities, social support and integration, recreational and educational (Townsend 1993).

Questions in the Guernsey survey were based on the Poverty and Social Exclusion Survey of England, with a few additional items and activities and questions modified taking into account the specific living conditions in Guernsey, in particular for the elderly.

#### Necessities of Life

Households were randomly selected from the Census database. Institutions, hotels and guest worker “hostels” were excluded. Following a short telephone interview to determine household characteristics, 855 households agreed to take part (64% of the sample), and a questionnaire sent to each person in the house. 856 Guernsey residents returned the postal questionnaire, a response rate of 64%.

The questionnaire asked what they considered to be the necessities of life, which everybody should be able to afford and no-one should have to do without. Of the 83 questions on necessary items, social activities, and essential services, 53 related to adults and 30 to children's necessities.

In previous UK surveys items and activities attracting a 50% or higher support from the surveys were considered socially perceived necessities. Adult items were classified into; food; housing; clothing; information; consumer durables; financial; medical; social. Child items were classified into; food; clothing; participation; developmental; environmental.

Items with more than 90% responses for Guernsey are noted below, although items with support by more than 50% of the population are included in the measure of relative poverty (Gordon et al 2001).



The following percentage of respondents perceived the following to be necessary for adults; 100% beds and bedding for everyone in the household; 97% enough money to visit their family doctor, pay for medicine prescriptions, buy glasses/hearing aids or other medical aids; 96% heating to warm living areas of the house if it is cold, and a refrigerator; 95% a damp-free home, enough money to keep home in a decent state of repair, and celebrations on special occasions such as birthdays; 94% a warm waterproof coat; 92% two meals a day, and replace or repair electrical goods such as a refrigerator; 91% insure contents of the home.

The following percentage of respondents perceived the following necessary for children; 99% a warm waterproof coat; 97% properly fitted shoes, and a bed and bedding to himself; 95% all the school uniform required by the school, and celebrations on special occasions such as birthdays; 94% fresh fruit or vegetables at least once a day; 92% three meals a day.

In addition the survey asked about essential services that can affect the standard of living, 22 on general services, 6 specifically for children, and 5 for the elderly. The following percentages of respondents perceived these local services as essential; 100% hospital, and doctor; 99% dentist; 98% optician; 97% chemist; 93% availability of home help for elderly; 92% special transport for elderly.

#### Views of the People on how to Improve the Standard Of Living

From the 856 respondents, over 4,000 suggestions were received on how to improve life in Guernsey. Islanders were asked for three main suggestions, for their own quality of life, for that in their Parish/Guernsey, for that of less well off islanders.

There was a great deal of support from islanders to improve the quality of life for the less well off. Housing came out as the most important category, with costs and poor quality being key issues. Improved provision of free or cheap public transport and healthcare were also the other top single issues. The idea of raising incomes for the less well off, through higher pensions and benefits, better paid jobs and lower income tax were also suggested. The low incomes of pensioners were a particular concern.

#### Poverty and Standard of Living

Interviews were carried out in 433 households in which over 1,097 people lived, 834 adults and 263 children. Questions were asked about themselves and their households, including demographics, income, benefits, educational attainment, and residence.

People were defined as being in poverty or poor, when they had both a low standard of living and a low income. A low standard of living was defined as not having at least four of the necessities of living as defined in phase 1 of the study, in which 50% of residents considered people should be able to afford and not do without.

Over 60% of lone parents and over 40% of single pensioners were in poverty. Of States renters over 50% were in poverty, compared to 25% private renters and 6% of owner occupiers. In summary, people living in poverty go without a whole range of items because of a shortage of money. Subjectively 5% of the population considered they live in poverty all the time, and 16% some of the time.

#### Housing and Health

Housing was a particular issue, with three times as many households in Guernsey with damp problems as in the UK. Problems with accommodation affected a higher proportion of private renters than either States renters or owner-occupiers. Using objective measures of poverty, the poor are less likely to live in detached houses.





Two thirds of those considered they are poor all the time lived in a terraced or semi-detached house. Six per-cent of respondents said the health of someone in their household was made worse by poor housing, ranging from 12% of those aged 16 to 29, to 9% of over 65s. Given the high rates of housing problems in Guernsey, especially damp, it was concluded that poor housing was affecting population health. The Guernsey figures, confirm extensive scientific evidence that poor housing significantly affects health (see section of report on housing and health).

### Health and Poverty

Islanders were asked a range of health questions, including the EuroQol EQ-5D questionnaire which defines the current health state in terms of mobility, self-care, usual activities, pain/discomfort, anxiety and depression, and an overall health state measure. In addition questions were asked about overall health in the previous six months, long-standing illness, disability or infirmity, and whether these limited activities in any way. The final question was on whether at time during the past year they had felt isolated from society or depressed because of lack of money.

The association of poverty and health were very marked. There was a linear trend between rising income and better health. For the great majority of health measures those who were poor fared significantly worse than those who were not poor. When controlling for age, sex, household type, level of education and place of birth, the poor in Guernsey were found to be four times as likely to be ill than the rest of the population. Poorer people were over fifteen times as likely to report societal isolation or depression during the last year because of a lack of money than better off people.

Depression and social isolation was also associated with people not satisfied with their accommodation, where they lived, or unable to work because of illness or disability. Guernsey figures reflected international research which shows poverty is associated with poorer health. In simple terms, poor people in Guernsey are at least four times more likely to be ill than the rest of the population.

The research showed a minority of people with such low incomes that their standard of living is below the minimum acceptable to the majority of islanders. Over 3,000 Guernsey households (16%) are estimated to be poor, with a low income and suffering from multiple deprivation that is 4 or more necessities of life which the majority of islanders think they should be able to afford. Of different groups, 63% of lone parents, 43% of single pensioners and 26% of large households with children were suffering from poverty.

### Local Services and Poverty

Collective exclusion is defined as when services were not available, and individual exclusion when services were priced out of individual reach. Collective exclusion affected about 30% and individual exclusion about 14%. None of the respondents said they could not afford the doctor or chemist, but 6% could not afford to use the dentist. Five percent of respondents said they had collective exclusion from doctors.

Poor people were also found to have less social support, and had some difficulties when paying to use public sports and cultural facilities and the dentists.

Poverty rates were lower in Guernsey than the UK, but highest among single pensioners. The poorest suffer twice as much stress as the rest of the population. More people thought poverty had increased in the previous ten years despite rapid economic growths, and thought poverty would increase in the next ten years than thought poverty would decrease. About 2/3rds of people supported an increase in tax to help end poverty in Guernsey.



### Health Services

Almost all the population surveyed thought that everyone should have enough money to visit their family doctor and pay for medicine prescription charges when sick, and to buy glasses and/or hearing aids.

Six percent of people said they did not always have enough money to visit their family doctor and pay for medicine prescription charges when sick, and 9% did not have enough money to buy glasses, hearing aids or other medical aids.

Several factors sustaining the association between poverty and poor health were:

- Difficulty in obtaining (and keeping) good quality, affordable housing for those on low incomes;
- Lack of affordable childcare for lone parent families on low incomes;
- Lack of suitable accommodation for the disabled;
- High cost of living on the island making eating a well-balanced healthy diet difficult for low income families;
- On-going costs of healthcare for people with long-term medical conditions who do not receive supplementary benefit and who are in the low income bracket, many of whom are excluded from private healthcare insurance schemes by nature of their health condition.

One-sixth of young people aged 16-24 could not afford to visit a doctor and pay for medical prescription charges when sick, or to buy glasses, compared to 6% of the population as a whole. Young people were more likely to experience isolation and depression as a result of lack of money than all other age groups.

### Perceptions of Poverty

The scientific measurement of relative poverty found that 16% of the population were poor. Seven percent of households said their incomes were inadequate to avoid absolute poverty and 12% general poverty. Many more people thought poverty would increase over the next ten years rather than decrease. Two-thirds of islanders thought poverty was caused by inevitable changes in society, injustice or bad luck. Two-thirds supported a tax increase to end poverty.

Pensioners made up a third of poor islanders.

### Suggested policy changes

Two main strategies were suggested to reduce the health-related costs of sick or disabled people. Instead of a small universal grant towards the cost of seeing the doctor which for many people had become meaningless, a much larger grant was suggested for those with chronic illness, consultations solely for a repeat prescription, and pre-school consultations.

The report points out that the UN Convention on the Rights of the Child commits signatories to provide the highest attainable standard of healthcare for children up to the age of 18, including full access to healthcare services (Article 21). This was considered to be best achieved through universal free healthcare provision funded through progressive taxation ("universal clawback").



Greater regulation of the rental sector was considered, to counteract the lack of legally enforceable accommodation standards.

One of the findings that was perhaps one of the easier to address was the prevalence of poverty among single pensioners compared with pensioner couples. For a number of years following the Townsend Report, the States approved higher increases in pension rates for single pensioners than for pensioner couples



## Glossary

### Determinants of health

The range of personal, social, economic and environmental factors which determine the health status of individuals or populations. The factors which influence health are multiple and interactive. Potentially modifiable determinants of health include not only those related to the actions of individuals such as health behaviours and lifestyles, but also factors such as income and social status, education, employment and working conditions, access to appropriate health services and the physical environments. These in combination create different living conditions which impact on health. Achieving change in these lifestyles and living conditions, which determine health status, are considered to be intermediate health outcomes. (WHO 1999)

### Equity in living conditions for all individuals and households

This concept is understood to reflect a contextually determined “acceptable” range of inequalities in income, wealth and other aspects of life in society, with the presumption of general agreement with regard to what is just or fair (or “equitable”) at any given time in any particular community, or in the world as a whole if universal norms are applied. This shift in terms, from equality to equity, derives from the fact that equality in living conditions has never been achieved in practice (except on a very limited scale by small religious or secular communities), has never been seriously envisaged by political theorists or moralists (except in the context of describing attractive—or more often repulsive—utopias), and is today commonly perceived as incompatible with freedom. (UN2006, p25)

### Equity - Health

Equity in health implies that ideally everyone should have a fair opportunity to attain their full health potential and, more pragmatically, that no one should be disadvantaged from achieving this potential, if it can be avoided. The term *inequity*...refers to differences in health which are not only unnecessary and avoidable but, in addition, are considered unfair and unjust. (WHO 1999).



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Health	<p>A state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity.</p> <p>The reduction in mortality, morbidity and disability due to detectable disease or disorder, and an increase in the perceived level of health. The first definition that of the WHO Constitution, expresses an ideal, which should be the goal of all health development activities (i.e. health as a fundamental right and a worldwide social goal). It does not, however, lend itself to objective measurement, and for working purposes a narrower definition is required, and the second definition is usually used for this purpose. (WHO 1999).</p>
Health development	<p>The process of continuous, progressive improvement of the health status of a population (WHO 1999).</p>
Health for all (HFA).	<p>As a minimum all people in all countries should have at least such a level of health that they are capable of working productively and participating actively in the social life of the community in which they live (WHO 1999).</p>
Health gain	<p>An increase in the measured health of an individual or population, including length and quality of life (WHO 1999).</p>
Health potential	<p>The fullest degree of health that an individual can achieve. Health potential is determined by caring for oneself and others, by being able to make decisions and take control over one's life, and by ensuring that the society in which one lives creates conditions that allow the attainment of health by all its members (WHO 1999).</p>
Health promotion	<p>The process of enabling individuals and communities to increased control over the determinants of health and thereby improve their health. An evolving concept that encompasses fostering lifestyles and other social, economic, environmental and personal factors conducive to health (WHO 1999).</p>



## Indicators

Variables that help to measure, changes in the health situation, directly or indirectly and to assess the extent to which the objectives and targets of a programme are being attained (WHO 1999).

Inequalities (UN 2006, p17-19). UN considers six key areas of inequality in the distribution of goods, opportunities and rights that underlie social justice, namely  
Income

Assets, including capital, physical and land

Opportunities for work and remunerated employment – the main determinant of income distribution

Access to knowledge, through school, universities etc, as this enables social mobility

Health services, social security and provision of a safe environment (underpinned by article 22 of the UN declaration of Human rights)

Civic and political participation

## Poverty

*Absolute poverty* or *extreme*

“A condition characterised by severe deprivation of basic human needs, including food, safe drinking water, sanitation facilities, health, shelter, education, and information. It depends not only on income but also on access to services (Gordon et al 2002).

“...not having the basic necessities of life to keep body and soul together (Gordon et al 2002, p135)

## General Poverty

Level of income needed to avoid poverty using the subjects own definition of what “poverty” means to them. (Gordon et al 2002).

## Overall Poverty

A wider measure, including not just lack of access to basics, but also lack of participation in decision-making, civil, social and cultural life (Gordon et al 2002, p135 -used with respondents in Guernsey survey).



### Relative Poverty

“..not having those things that society thinks are basic necessities. Overall poverty also means not being able to do the things most people take for granted (either because you can't afford to participate in usual activities or because you are discriminated against in other ways. What constitutes overall poverty will vary between different societies and at different points in time.” (Gordon et al 2002, p135 used with respondents in Guernsey survey).

People are said to be living in poverty if their income and resources are so inadequate as to preclude them from having a standard of living considered acceptable in the society in which they live. Because of their poverty they may experience multiple disadvantage through unemployment, low income, poor housing, inadequate health care and barriers to lifelong learning, culture, sport and recreation. They are often excluded and marginalised from participating in activities (economic, social and cultural) that are the norm for other people and their access to fundamental rights may be restricted." EU (2004, p7).

### Social capital

Social capital represents the degree of social cohesion which exists in communities. It refers to the processes between people which establish networks, norms and social trust, and facilitate coordination and cooperation for mutual benefit (WHO 1999).

### Social exclusion

Social exclusion is a process whereby certain individuals are pushed to the edge of society and prevented from participating fully by virtue of their poverty, or lack of basic competencies and lifelong learning opportunities, or as a result of discrimination. This distances them from job, income and education opportunities as well as social and community networks and activities. They have little access to power and decision-making bodies and thus often feeling powerless and unable to take control over the decisions that affect their day to day lives.

### Social inclusion

Social inclusion is a process which ensures that those at risk of poverty and social exclusion gain the opportunities and resources necessary to participate fully in economic, social and cultural life and to enjoy a standard of living and well-being that is considered normal in the society in which they live.



It ensures that they have greater participation in decision making which affects their lives and access to their fundamental rights

### Social justice

The Charter of the United Nations makes no explicit distinction between international justice, or justice among nations, and social justice, or justice among people. The application of social justice requires a geographical, sociological, political and cultural framework within which relations between individuals and groups can be understood, assessed, and characterized as just or unjust. In modern times, this framework has been the nation-State. In the contemporary context, social justice is typically taken to mean distributive justice. In international justice, Governments are compelled to represent and serve their populations and act in their best interest, without discrimination, (UN 2006). *Economic justice*, defined as the existence of opportunities for meaningful work and employment and the dispensation of fair rewards for the productive activities of individuals, will be treated here as an aspect of social justice. Individuals, institutions, Governments and international organizations make judgments about what is just and what is unjust based on complex and generally unformulated frameworks of moral and political values.





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Bailiwick of Guernsey

**(NB The Treasury and Resources Department has commented as follows:**

**Whilst the Treasury and Resources Department is conscious that the States are only being asked to note the report from the Medical Officer of Health, it is aware that some of the recommendations contained therein could have potentially significant resource implications for the States of Guernsey. It should be acknowledged that, in noting the report, States Members are not committing themselves to act on the recommendations or committing resources to their implementation.**

**Nevertheless, the Department has noted with particular interest the recommendations in respect of changes to the taxation and benefits system, which are pertinent given the joint review of personal taxation and benefits which it is undertaking jointly with the Social Security Department and which will shortly be the subject of a public consultation exercise.)**

**(NB The Policy Council has no comments on the proposals.)**

The States are asked to decide:-

IX.- Whether, after consideration of the Report dated 8<sup>th</sup> March, 2013, of the Health and Social Services Department, they are of the opinion to note the Report.

## STATES ASSEMBLY AND CONSTITUTION COMMITTEE

### QUESTIONS

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

18<sup>th</sup> March 2013

Dear Sir

### EXECUTIVE SUMMARY

1. This report proposes amendments to the Rules of Procedure of the States of Deliberation regarding Question Time (i.e. questions placed for verbal answer in the States of Deliberation) to the extent that
  - Each question shall be limited to a single topic and shall not exceed one minute in duration;
  - Each answer shall not exceed one and a half minutes in duration;
  - Supplementary questions shall also be subject to the aforesaid time limits and no Member may ask more than two supplementary questions in respect of each principal question;
  - Questions which seek information which is readily accessible in the public domain shall be deemed inadmissible by the Presiding Officer;
  - The period allowed for question time be extended to one hour;
  - When Ministers or Chairmen decline to give an immediate answer to a supplementary question they shall provide an answer thereto in writing usually within five working days;
  - The order in which questions are asked will rotate in accordance with the provision regarding the rotation of appels nominals;
  - Provision be made for urgent questions to be asked without giving five days' notice.
  - More flexibility be introduced for the period provided for questions which follow the making of Statements in accordance with Rule 8.

### REPORT

2. The Rules of Procedure of the States of Deliberation make provision for questions to be asked:
  - (a) for reply by the Chief Minister, Ministers and Chairmen of the departments or committees concerned during a period of question time which takes place at the start of each session of the States (*pursuant to Rule 5*);
  - (b) for reply in writing by the Chief Minister, Ministers and Chairmen of the departments or committees concerned (*pursuant to Rule 6*);

(c) following the making of a Statement by a Member of the States, typically by the Chief Minister, Ministers and Chairmen on behalf of departments or committees (*pursuant to Rule 8*).

3. The States Assembly and Constitution Committee, having received representations from several Members of the States regarding both written and oral questions, has reviewed the adequacy of the existing Rules relating to questions and considered whether any additional provisions are desirable. The proposals contained in this report are shaped in part by the helpful contributions made by Members.

#### **RULE 5 –QUESTIONS FOR REPLY IN THE STATES OF DELIBERATION**

4. This Rule provides that
- any question (not related to the business of the day) may be addressed to the Chief Minister, Ministers and Chairmen;
  - notice thereof must have been given not less than five clear days, excluding weekends and public holidays, before the date of the meeting;
  - the Presiding Officer has discretion to postpone question time if all the questions have not been disposed of at the conclusion of half an hour;
  - the reply to a question must be sent to the Member not later than 5.00 p.m. on the day preceding the meeting;
  - supplementary questions which arise from the reply may be asked by any Member but the persons answering may decline to do so if they consider the answer given might be inaccurate or misleading;
  - questions need not be answered in the course of a debate relating to the annual budget or annual accounts unless notice thereof has been given not less than five clear days, excluding weekends and public holidays, before the date of the meeting.
5. The following statistics relate to questions asked pursuant to Rule 5 in the past three years:

	<i>Time per year/ average per session</i>	<i>No. of Composite Questions</i>	<i>Parts of Questions</i>
2010	4 hrs 57 mins 27 mins average	32	98
2011	3 hrs 14 mins 18 mins average	22	62
2012	4 hrs 25 mins 27 mins average	32	59

6. Rule 5 makes no provision as to how many questions may be asked by a Member nor does it regulate the content of either the question or the answer. At present a Member can ask any number of multiple-part questions which may cover more than one topic. Similarly there is no limitation on the length of the answers given. In the opinion of the Committee question time should be a dynamic exchange between a Minister or Chairman and other Members, and the present arrangements do not facilitate such an exchange. The Committee is therefore proposing that each question shall not exceed one minute's duration and each answer shall not exceed one and a half minute's duration. These time limits will also apply to supplementary questions.
7. From time to time Members ask questions when the answer is easily accessible from other sources. Such questions waste States' time and should therefore be deemed inadmissible. This is already the practice in other jurisdictions such as Jersey and the United Kingdom. The Committee envisages that if a Minister or Chairman received a question to which he or she believed that the answer was publicly and easily accessible, he or she would ask the Presiding Officer to determine that the question was inadmissible on that ground. If the Presiding Officer so ruled the Presiding Officer would advise the member asking the question that it was inadmissible and the Minister would reply to the questioner in writing, advising where the information could be obtained.
8. Whilst the table in paragraph 5 shows that on average question time is disposed of in less than half an hour, there are occasions when almost an hour has been required. The Committee believes that question time is an important part of parliamentary business because it contributes to the accountability of States departments and committees and, if used effectively, it enables Members to obtain information from departments and committees which might otherwise not have been disclosed. That being so the Committee is recommending that the period of half an hour currently provided should be lengthened to one hour.
9. The Committee is of the opinion that the special provision in the Rules which states that questions need not be answered in the course of a debate relating to the annual budget or annual accounts unless notice thereof has been given not less than five clear days, excluding weekends and public holidays, before the date of the meeting is no longer appropriate. Many debates relate to issues which are of a complex or technical nature but no provision is made with regard to questions arising in such circumstances. If Ministers or Chairmen do not know the answer to a technical question the Committee considers that the appropriate response is to say that a reply to the question will be sent to the Member in due course. It is therefore proposed that paragraph (3) of Rule 5 be deleted.
10. The proviso to paragraph (4) of Rule 5 states that a Minister or Chairman may decline to answer a supplementary question if in his/her opinion the

answer given might be inaccurate or misleading. The Committee accepts the appropriateness of that proviso but believes that when a supplementary question is declined for that reason the Minister or Chairman should be required to provide a written answer to the question within five working days subject to the Presiding Officer having discretion if circumstances so require to extend that period to 10 days.

11. The Rules are silent as to the order in which questions are asked although the current practice is that questions are listed in the order of seniority of Members and, when Members are of equal seniority, then in alphabetical order. Whilst this system is transparent, the Committee believes that it would be more equitable if the order changed on a rotational basis. Rule 14 (2A) provides that the order in which voting commences in appeals nominals rotates between the seven electoral districts on a monthly basis. The Committee is proposing that the order in which questions are asked shall be in the order of the roll call commencing with the electoral district in which voting will start at the meeting at which the questions are placed.
12. In summary, the Committee is proposing that
  - Each question shall be limited to a single topic and shall not exceed one minute in duration;
  - Each answer shall not exceed one and a half minutes in duration;
  - Supplementary questions shall also be subject to the aforesaid time limits and no Member may ask more than two supplementary questions in respect of each principal question;
  - Questions which seek information which is readily accessible in the public domain shall be deemed inadmissible;
  - The period allowed for question time be extended to one hour
  - When Ministers or Chairmen decline to give an immediate answer to a supplementary question they shall provide an answer thereto in writing within five working days.
13. The Deputy Presiding Officer, following a long period of question time last September, suggested that Ministers and Chairmen replying to questions should concentrate on giving direct answers and noted that often the reply took the form of an expanded statement. He noted that in other jurisdictions question times were “often much pithier affairs”. The full text of the Deputy Presiding Officer’s advice included in Hansard is set out in the following paragraph. The Committee noted with regret that the Deputy Presiding Officer’s words appeared not to have borne fruit as the following month one Minister took a full ten minutes to answer just one question.
14. *“Members, I hope you are going to forgive me for taking up more of your time but that concludes our Question Time this month. On my calculation, it was some fifty-three minutes this time.*

*I am a firm believer in Question Time as being a proper exercise of*

*accountability and information sharing in a parliamentary democracy. Although presiding officers and, indeed, their deputies, traditionally give a degree of latitude to those answering questions to do more than provide the answers sought by the questioner, some of the answers given this month, it seems to me, have expanded more into a form of 'statement' than being confined to a direct answer to the questions posed.*

*To take the one example – and I am sure Deputy Sillars will forgive me – the question about the cost of supply teaching in the last twelve months really only called for the amount actually spent to be given by way of reply. There may, of course, be some merit in those answering questions volunteering information about the reasons for the amount spent in this instance, but that information might equally have been elicited through appropriate supplementary questions if, and I stress the if, a Member wished to pursue the matter to that level of detail.*

*Members, and particularly those Ministers and Chairmen answering Questions, might wish to have regard to what happens in other parliamentary assemblies, where Question Times are often much pithier affairs, during which Members extract information into the public domain through focused questions and answers rather than the more discursive style commonly adopted here in the States of Deliberation.*

*Now I offer those thoughts at this stage near the start of this term and very much from the perspective of being the 'new boy' in this Chair. I do not have any desire to dictate any particular approach going forwards but, perhaps, to enable some further thought by all those concerned to be given now to the best way to achieve the efficient and effective despatch of business at States meetings.*

**(Members: Hear, hear.)**

15. The Committee therefore recommends that the current Rule 5 be rescinded and that it be replaced with a new Rule which is set out in full in paragraph 28 (1).

#### **URGENT QUESTIONS FOR REPLY IN THE STATES**

16. Questions have to be placed at least five clear days before the date of the States meeting. The Committee accepts that this period of notice is necessary to allow for the preparation of answers. There is, however, no provision in the Rules for an urgent question to be asked without the requisite period of notice. In many other jurisdictions Standing Orders do make provision in such circumstances. Whilst the Committee does not anticipate that urgent questions would be put frequently it does, nonetheless, consider that the option should be provided.

17. The Committee is therefore proposing that a Member may seek the leave of the Presiding Officer, not less than half an hour before the commencement of a meeting, to ask a Minister or a Chairman a question which is both of an urgent nature and relates to a matter of public importance. If the Presiding Officer was satisfied that the question fulfilled that criteria he would then communicate the question to the Minister or Chairman concerned and determine when, in the course of the meeting, the question would be put.
18. The Committee therefore recommends that a new Rule as set out in full in paragraph 30 (2) be added after Rule 5.

#### **RULE 8 (b) – STATEMENTS**

19. This Rule provides a period of question time not exceeding 15 minutes immediately following a Statement made by either a Minister or a Chairman. In the majority of cases this period is sufficient. However, there are occasions when the Statement relates to a matter of some significance when it would be appropriate for that period to be extended. The Committee recommends that the Presiding Officer be permitted to extend the period for questions at his discretion. It is therefore proposed that Rule 8 be amended as follows:

after the words “not exceeding 15 minutes” insert “(which period may be extended at the discretion of the Presiding Officer)”.

#### **PUBLICATION OF ANSWERS TO QUESTIONS**

20. Prior to the introduction of Hansard reports which commenced on the 1<sup>st</sup> May 2012, there was no collected record of answers given to Rule 5 (oral) questions. All questions, supplementary questions and answers are now recorded in full in Hansard which is published on the States’ website.
21. However, Rule 6 (written) questions are not included in Hansard. The Committee has therefore resolved that all questions and answers pursuant to that Rule should be published on the States’ website. All such questions and answers since the 1<sup>st</sup> May 2012 are now available at <http://www.gov.gg/article/105241/Written-Questions>

#### **OTHER ASPECTS CONSIDERED BUT NOT PURSUED**

22. In the course of its review of the Rules relating to questions, the Committee, in part at the request of other members, considered other possibilities for reform which are not being pursued at present. The Committee believes that it should explain its position in respect of these other matters.



23. Consideration was given to proposing the introduction of a period of questions without notice. The Committee does not dispute that permitting questions without notice would likely make question time more dynamic and robust and acknowledges that the facility exists in many other jurisdictions. However, without exception such jurisdictions have ministerial or quasi-ministerial systems of government. The Committee concluded that questions without notice would not be appropriate under the system of government which exists in Guernsey, based on its administration by committees rather than Ministers with executive powers. In Guernsey Ministers and Chairmen have no authority to commit their departments or committees to a particular policy or course of action without the consent of a majority of the members of their department or committee and consequently would most likely be unable, or perhaps moreover unwise, to answer questions which have not been afforded due consideration by the department or committee.
24. It was also suggested to the Committee that rules might be introduced which would prevent the abuse of question time for self-publicity. Again this is a matter which is covered in certain other jurisdictions but the Committee has not identified any significant abuse of question time for self-publicity in Guernsey and does not, therefore, propose that provision be made in that regard but it is hoped that the reforms proposed in this report will limit such abuse. However, the Committee agrees that to make question time work effectively discipline needs to be exercised by both questioners and persons replying.
25. One further suggestion considered by the Committee was the possibility of introducing a system whereby questions which relate to sensitive issues or which might divulge the identity of an individual could be placed in a manner which prevented the identity or particular issue from being disclosed. By way of example a question might be put in the following terms: "*Has the Minister investigated the case about which I wrote to him on the 1<sup>st</sup> May?*". The answer would also be worded with similar circumspection. On balance the Committee has concluded that the occasions when such a form would be required are likely to be extremely rare and it does not, therefore, intend to propose any change to the Rules at present to facilitate questions being placed in such a manner.
26. The Committee noted that there have been occasions when a Minister or Chairman appears to have avoided answering a question for political reasons rather than as matter of confidentiality. The Committee understands and accepts that this can be part of the cut and thrust of politics. However, when a Minister or Chairman takes this line and it is noted by the Assembly, he or she should be under an obligation either to answer the question, or confirm that a written answer to the question will be provided in accordance with the rule change being proposed. The Committee is hopeful that Ministers and

Chairmen will be willing to provide answers to all questions without the need for a change in the Rules.

### **CONSULTATION / RESOURCES / NEED FOR LEGISLATION**

27. The Presiding Officer and H. M. Greffier have been consulted pursuant to Rule 14(6) of the Rules relating to the Constitution and Operation of States Departments and Committees. The Law Officers have not identified any reason in law why the proposals set out in this Report cannot be implemented.
28. The approval of the recommendations would have no implications for the manpower resources or revenue expenditure of the States nor do they require any legislation.

### **PRINCIPLES OF GOOD GOVERNANCE**

29. The Committee is of the view that the proposed changes to the Rules of Procedure make greater provision for Members to ask questions of Ministers and Chairmen which should increase openness and transparency and strengthen accountability. Consequently the proposals contained in this report are in accordance with the principles of good governance.

### **RECOMMENDATIONS**

30. The States Assembly and Constitution Committee recommends the States to agree –
  - (1) that Rule 5 be deleted and the following substituted therefor:
    - "5.(1) At the time prescribed in Rule 9, unless the Presiding Officer otherwise directs, and subject to Rule 7 and the conditions set out in paragraph (2), questions may be addressed to:
      - (a) the Chief Minister;
      - (b) the Minister of a Department;
      - (c) the Chairman of a Committee.
    - (2) The conditions referred to in paragraph (1) are that the question:
      - (a) shall not relate to the business of the day;
      - (b) shall not seek information which is readily accessible in the public domain;
      - (c) shall not relate to more than one topic and shall not exceed one minute in duration;
      - (d) shall be furnished either in writing or electronic format to the person to whom it is addressed, the Presiding Officer

and Her Majesty's Procureur not less than 5 clear days before the day of the Meeting, excluding Saturdays, Sundays and Public Holidays;

PROVIDED THAT

the time limit prescribed in sub-paragraph (d) may be shortened with the consent of the person to whom the question is addressed;

- (3) The Member replying to the question shall furnish, either in writing or electronic format, a copy of the proposed answer to the Presiding Officer and to Her Majesty's Procureur not later than noon on the day (excluding Saturdays, Sundays and Public Holidays) preceding the meeting of the States and by 5.00 p.m. of that same day to the Member asking the question. The answer, when given in the Assembly, shall not exceed one and a half minutes in duration.
- (4) Supplementary questions arising out of the reply to a question may be addressed to the Member answering the question, by any Member, as may be allowed by the Presiding Officer:

PROVIDED THAT –

- (a) no Member may ask more than two supplementary questions in respect of each principal question;
- (b) each supplementary question shall not exceed one minute in duration and the answer thereto shall not exceed one and a half minutes in duration;
- (c) such supplementary questions are put before the next question of which notice has been given, or the business of the day is proceeded with, as the case may be; and
- (b) Members answering a supplementary question may decline to answer the question if, in their opinion, any answer given thereto might be inaccurate or misleading but shall provide the answer to the said question in writing not later than 5 clear days excluding Saturdays, Sundays and Public Holidays following the date of the meeting.

PROVIDED FURTHER THAT the period of 5 clear days referred to in sub paragraph (b) may be extended to a period not exceeding 10 clear days if in any particular case –

- (a) the Presiding Officer, on application of the Chief Minister, Minister or Chairman, as the case may be, in the interests of good government so directs, and
- (b) the Chief Minister, Minister or Chairman, as the case may be, advises the questioner of the Presiding Officer's direction as soon as reasonably practicable.

- (5) When more than one question is asked at any meeting the order in which questions are put shall be determined in accordance with the order of voting prescribed in Rule 14 (2A).
- (6) If, at the conclusion of one hour after the commencement of question time, all the questions have not been disposed of, the Presiding Officer may, in his discretion, postpone dealing with questions not then disposed of to no later than the conclusion of the meeting.”;

(2) that the following new Rules be added after Rule 5:

***“Urgent Questions***

- 5A.(1) A Member may, not less than half an hour before a meeting commences, seek the leave of the Presiding Officer, subject Rule 7 and to the conditions set out in paragraph (2), to address a question to:
  - (a) the Chief Minister;
  - (b) the Minister of a Department;
  - (c) the Chairman of a Committee.
- (2) The conditions referred to in paragraph (1) are that no Member may ask more than one question pursuant to this Rule at any meeting and that the question:
  - (a) shall be of an urgent character and which relates to a matter of public importance;
  - (b) shall not relate to the business of the day;
  - (c) shall not seek information which is readily accessible in the public domain;
  - (d) shall not relate to more than one topic and shall not exceed one minute in duration;
  - (e) shall be supplied in writing to the Presiding Officer, Her Majesty’s Procureur and the Member to whom it is addressed.
- (3) If the Presiding Officer considers that the proposed question complies with the conditions set out in paragraph (2) he or she shall determine when the question shall be put.
- (4) The Member replying to the question shall furnish, in writing a copy of the proposed answer to the Presiding Officer and to Her Majesty’s Procureur as soon as possible before the time determined by the Presiding Officer in accordance with paragraph (3). The answer, when given in the Assembly, shall not exceed one and a half minutes in duration.
- (5) Supplementary questions arising out of the reply to a question may be addressed to the Member answering the question, by any Member, as may be allowed by the Presiding Officer:

PROVIDED THAT –

- (a) no Member may ask more than two supplementary questions in respect of each principal question;
- (b) each supplementary question shall not exceed one minute in duration and the answer thereto shall not exceed one and a half minutes in duration;
- (c) such supplementary questions are put before the business of the day is resumed; and
- (b) Members answering supplementary questions may decline to answer them if, in their opinion, any answer given thereto might be inaccurate or misleading but shall provide the answers in writing not later than 5 clear days excluding Saturdays, Sundays and Public Holidays following the date of the meeting.

PROVIDED FURTHER THAT the period of 5 clear days referred to in sub paragraph (b) may be extended to a period not exceeding 10 clear days if in any particular case –

- (b) the Presiding Officer, on application of the Chief Minister, Minister or Chairman, as the case may be, in the interests of good government so directs, and
  - (b) the Chief Minister, Minister or Chairman, as the case may be, advises the questioner of the Presiding Officer's direction as soon as reasonably practicable.
- (6) If, at the conclusion of one half hour after the question is asked, any supplementary questions have not been disposed of, the Presiding Officer may, in his or her discretion, postpone dealing with questions not then disposed of to no later than the conclusion of ordinary business that day.;

***Questions where information sought is in Public Domain***

- 5B.(1) When, pursuant to Rule 5(2)(b) or Rule 5A(2)(c) the Chief Minister, the Minister or Chairman, as the case may be, is of the opinion that the answer is publicly and easily accessible he or she shall request the Presiding Officer to determine that the question is inadmissible on that ground.
- (2) If the Presiding Officer so determines he shall forthwith advise the Member asking the question and the Chief Minister, the Minister or Chairman, as the case may be, that the question is inadmissible on that ground.
- (3) The Chief Minister, the Minister or Chairman, as the case may be shall reply to the questioner, in writing, advising where the information sought may be obtained. ”;

- (3) In Rule 8, after the words “not exceeding 15 minutes” insert “(which period may be extended at the discretion of the Presiding Officer)”.

Yours faithfully

M. J. FALLAIZE

Chairman  
States Assembly and Constitution Committee

Members of the Committee are

Deputy M. J. Fallaize (Chairman)  
Deputy P. L. Gillson (Vice-Chairman)  
Deputy E. G. Bebb  
Deputy R. Conder  
Deputy A. H. Adam

The States are asked to decide:-

X.- Whether, after consideration of the Report dated 18<sup>th</sup> March 2013, of the States Assembly and Constitution Committee, they are of the opinion:-

1. To agree that Rule 5 be deleted and the following substituted therefor:

"5.(1) At the time prescribed in Rule 9, unless the Presiding Officer otherwise directs, and subject to Rule 7 and the conditions set out in paragraph (2), questions may be addressed to:

- (a) the Chief Minister;
- (b) the Minister of a Department;
- (c) the Chairman of a Committee.

- (2) The conditions referred to in paragraph (1) are that the question:

- (a) shall not relate to the business of the day;
- (b) shall not seek information which is readily accessible in the public domain;
- (c) shall not relate to more than one topic and shall not exceed one minute in duration;
- (d) shall be furnished either in writing or electronic format to the person to whom it is addressed, the Presiding Officer and Her Majesty's Procureur not less than 5 clear days before the day of the Meeting, excluding Saturdays, Sundays and Public Holidays;

PROVIDED THAT

the time limit prescribed in sub-paragraph (d) may be shortened with the consent of the person to whom the question is addressed;

- (3) The Member replying to the question shall furnish, either in writing or electronic format, a copy of the proposed answer to the Presiding Officer and to Her Majesty's Procureur not later than noon on the day (excluding Saturdays, Sundays and Public Holidays) preceding the meeting of the States and by 5.00 p.m. of that same day to the Member asking the question. The answer, when given in the Assembly, shall not exceed one and a half minutes in duration.

- (4) Supplementary questions arising out of the reply to a question may be addressed to the Member answering the question, by any Member, as may be allowed by the Presiding Officer:

PROVIDED THAT –

- (d) no Member may ask more than two supplementary questions in respect of each principal question;
- (e) each supplementary question shall not exceed one minute in duration and the answer thereto shall not exceed one and a half minutes in duration;
- (f) such supplementary questions are put before the next question of which notice has been given, or the business of the day is proceeded with, as the case may be; and
- (b) Members answering a supplementary question may decline to answer the question if, in their opinion, any answer given thereto might be inaccurate or misleading but shall provide the answer to the said question in writing not later than 5 clear days excluding Saturdays, Sundays and Public Holidays following the date of the meeting.

PROVIDED FURTHER THAT the period of 5 clear days referred to in sub paragraph (b) may be extended to a period not exceeding 10 clear days if in any particular case –

- (c) the Presiding Officer, on application of the Chief Minister, Minister or Chairman, as the case may be, in the interests of good government so directs, and
  - (b) the Chief Minister, Minister or Chairman, as the case may be, advises the questioner of the Presiding Officer's direction as soon as reasonably practicable.
- (5) When more than one question is asked at any meeting the order in which questions are put shall be determined in accordance with the order of voting prescribed in Rule 14 (2A).
- (6) If, at the conclusion of one hour after the commencement of question time, all the questions have not been disposed of, the Presiding Officer may, in his discretion, postpone dealing

with questions not then disposed of to no later than the conclusion of the meeting.”

2. To agree that the following new Rules be added after Rule 5:

***“Urgent Questions***

- 5A.(1) A Member may, not less than half an hour before a meeting commences, seek the leave of the Presiding Officer, subject Rule 7 and to the conditions set out in paragraph (2), to address a question to:
- (a) the Chief Minister;
  - (b) the Minister of a Department;
  - (c) the Chairman of a Committee.
- (2) The conditions referred to in paragraph (1) are that no Member may ask more than one question pursuant to this Rule at any meeting and that the question:
- (a) shall be of an urgent character and which relates to a matter of public importance;
  - (b) shall not relate to the business of the day;
  - (c) shall not seek information which is readily accessible in the public domain;
  - (d) shall not relate to more than one topic and shall not exceed one minute in duration;
  - (e) shall be supplied in writing to the Presiding Officer, Her Majesty’s Procureur and the Member to whom it is addressed.
- (3) If the Presiding Officer considers that the proposed question complies with the conditions set out in paragraph (2) he or she shall determine when the question shall be put.
- (4) The Member replying to the question shall furnish, in writing a copy of the proposed answer to the Presiding Officer and to Her Majesty’s Procureur as soon as possible before the time determined by the Presiding Officer in accordance with paragraph (3). The answer, when given in the Assembly, shall not exceed one and a half minutes in duration.
- (5) Supplementary questions arising out of the reply to a question may be addressed to the Member answering the question, by any Member, as may be allowed by the Presiding Officer:
- PROVIDED THAT –
- (d) no Member may ask more than two supplementary questions in respect of each principal question;
  - (e) each supplementary question shall not exceed one minute in duration and the answer thereto shall not exceed one and a half minutes in duration;
  - (f) such supplementary questions are put before the business of the day is resumed; and



- (b) Members answering supplementary questions may decline to answer them if, in their opinion, any answer given thereto might be inaccurate or misleading but shall provide the answers in writing not later than 5 clear days excluding Saturdays, Sundays and Public Holidays following the date of the meeting.

PROVIDED FURTHER THAT the period of 5 clear days referred to in sub paragraph (b) may be extended to a period not exceeding 10 clear days if in any particular case –

- (d) the Presiding Officer, on application of the Chief Minister, Minister or Chairman, as the case may be, in the interests of good government so directs, and
  - (b) the Chief Minister, Minister or Chairman, as the case may be, advises the questioner of the Presiding Officer's direction as soon as reasonably practicable.
- (6) If, at the conclusion of one half hour after the question is asked, any supplementary questions have not been disposed of, the Presiding Officer may, in his or her discretion, postpone dealing with questions not then disposed of to no later than the conclusion of ordinary business that day.;

***Questions where information sought is in Public Domain***

- 5B.(1) When, pursuant to Rule 5(2)(b) or Rule 5A(2)(c) the Chief Minister, the Minister or Chairman, as the case may be, is of the opinion that the answer is publicly and easily accessible he or she shall request the Presiding Officer to determine that the question is inadmissible on that ground.
- (2) If the Presiding Officer so determines he shall forthwith advise the Member asking the question and the Chief Minister, the Minister or Chairman, as the case may be, that the question is inadmissible on that ground.
- (3) The Chief Minister, the Minister or Chairman, as the case may be shall reply to the questioner, in writing, advising where the information sought may be obtained."

3. To agree that in Rule 8, after the words "not exceeding 15 minutes" insert "(which period may be extended at the discretion of the Presiding Officer)".

***ORDINANCE LAID BEFORE THE STATES***

**THE MENTAL HEALTH (MISCELLANEOUS PROVISIONS) (GUERNSEY AND  
ALDERNEY) ORDINANCE, 2013**

In pursuance to the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, The Mental Health (Miscellaneous Provisions) (Guernsey and Alderney) Ordinance, 2013, made by the Legislation Select Committee on the 25<sup>th</sup> March, 2013, is laid before the States.

***STATUTORY INSTRUMENTS LAID BEFORE THE STATES***

**THE FOUNDATIONS (GUERNSEY) LAW, 2012 (COMMENCEMENT)  
REGULATIONS, 2013**

In pursuance of 51(4) of the Foundations (Guernsey) Law, 2012, The Foundations (Guernsey) Law, 2012 (Commencement) Regulations, 2013 made by the Commerce and Employment Department on 8<sup>th</sup> January 2013 are laid before the States.

**EXPLANATORY NOTE**

These Regulations commence the Foundations (Guernsey) Law, 2012 on 8<sup>th</sup> January, 2013.

**THE FOUNDATIONS (GUERNSEY) (FEES) REGULATIONS, 2013**

In pursuance of 51(4) of the Foundations (Guernsey) Law, 2012, The Foundations (Guernsey) (Fees) Regulations, 2013, made by the Commerce and Employment Department on 8<sup>th</sup> January 2013 are laid before the States.

**EXPLANATORY NOTE**

These Regulations specify fees and penalties, and the person by whom and time by when they are payable, for applications to and the exercise of the functions of the Registrar of Foundations under the Foundations (Guernsey) Law, 2012.

These Regulations commenced on 8<sup>th</sup> January, 2013.

## **THE LIQUOR LICENCE (FEES) REGULATIONS, 2013**

In pursuance of Section 99(3) of the Liquor Licensing Ordinance, 2006, the Liquor Licence (Fees) Regulations, 2013, made by the Home Department on 4<sup>th</sup> March 2013, are laid before the States.

### **EXPLANATORY NOTE**

These Regulations amend Schedule 4 of the Liquor Licensing Ordinance, 2006 which sets the relevant fees for liquor licences etc. These Regulations come into force on 1<sup>st</sup> June 2013.

## **MOTOR VEHICLES, LICENSING, TRAFFIC AND PUBLIC TRANSPORT (FEES) (GUERNSEY) REGULATIONS, 2013**

In pursuance of section 2B of the Motor Taxation and Licensing (Guernsey) Law, 1987, section 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007, section 16 of the Registration Marks (Sale and Retention) Ordinance, 1997, section 8A of the Motor Vehicles (International Circulation) Ordinance, 1974, the Motor Vehicles, Licensing, Traffic and Public Transport (Fees) (Guernsey) Regulations, 2013, made by the Environment Department on 19<sup>th</sup> March 2013, are laid before the States.

### **EXPLANATORY NOTE**

The Department has carried out a review of its fees and charges for which it has administrative responsibility in the areas of driving licences, vehicle registration, registration marks, international driving permits, permits to drive public service vehicles, and road service and vehicle licensing.

These Regulations increase the fees payable to the Environment Department or the Chief Accountant with effect from the 1st April 2013 in relation to the following areas:

- Driving Licences - the issue and renewal of trade plates (£35), the deposit paid upon the issue of trade plates (£17.50), the introduction of a surcharge for the processing of an expedited (same working day) driving licence (£30) or expedited (next working day) driving licence (£20),
- Vehicle Registration - the first registration of a motor vehicle (£40), and the issue of a duplicate registration certificate (£12.50),
- Registration Marks - the exchange of registration marks (£40), the acquisition of a right of retention (£80), the acquisition of a right to be on the waiting list for a particular registration mark (£80), the issue of a duplicate certificate (£40), and the grant of an extension of a right (£80),
- International Driving Permits – the issue of an international driving permit or certificate (£10),

- Permit to Drive a Public Service Vehicle – Island knowledge test (£20), examination of ability to drive a public service vehicle (£70 per test period or a reduced fee of £10 per test period where a driving test for a motor vehicle of a class in category D or D1 is taken on the same day), application fee for a permit to drive a public service vehicle (£10), grant of a 4 year permit to drive a public service vehicle (£20), renewal of a 4 year permit to drive a public service vehicle (£40), and the annual renewal fee of a permit to drive a public service vehicle in relation to persons over 60 (£10), and
- Road Service and Vehicle Licensing – grant or renewal fee for a public service vehicle licence (£30), the grant of a temporary public service vehicle licence (£10), the permanent transfer of a public service vehicle licence (£15), the transfer of a public service vehicle licence to a new owner of a motor vehicle (£10), deposit upon the issue of a public service vehicle licence plate (£10), the examination of a public service vehicle (£20), the subsequent re-examination of a public service vehicle (£50), and the examination of a taximeter (£10).

These fee increases have been calculated in accordance with the Criteria for Evaluating Fees and Charges established by the Treasury and Resources Department (see Billet d'État III, 2007) and are primarily based upon increases in the RPIX (an index based on the Retail Price Index that excludes mortgage interest payments) since the fees and charges set out in these Regulations were last reviewed.

These Regulations came into force on the 1st April 2013.

### **THE CIVIL CONTINGENCIES (CONTINGENCIES PLANNING) (BAILIWICK OF GUERNSEY) REGULATIONS, 2013**

In pursuance of Section 11 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012, the Civil Contingencies (Contingency Planning) (Bailiwick of Guernsey) Regulations, 2013, made by the Civil Contingencies Authority on 15<sup>th</sup> March 2013, are laid before the States.

#### **EXPLANATORY NOTE**

These Regulations are made under Part 2 of the Civil Contingencies (Bailiwick of Guernsey) Law, 2012 (“the Law”), and place duties relating to business continuity and emergency planning on the Civil Contingencies Authority and those persons listed in Schedule 2 to the Law. These Regulations came into operation on 1<sup>st</sup> April, 2013.