



BILLET D'ÉTAT

XX
2015

WEDNESDAY, 25th NOVEMBER, 2015

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BILLET D'ÉTAT

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

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **25th NOVEMBER, 2015** 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

16th October 2015

**THE SOCIAL INSURANCE (RATES OF CONTRIBUTIONS AND BENEFITS,
ETC.) ORDINANCE, 2015**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft Ordinance entitled “The Social Insurance (Rates of Contributions and Benefits, Etc.) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends rates of contributions, upper and lower income limits, rates and amounts of benefits and prescribes the percentages for the Guernsey Health Service Fund Allocation and the Long-term Care Insurance Fund Allocation for 2016 under The Social Insurance (Guernsey) Law, 1978. With the exception of section 7 (which deals with rates and amounts of benefits and which comes into force on 4th January, 2016), the Ordinance is effective from 1st January, 2016.

THE HEALTH SERVICE (BENEFIT) (AMENDMENT) ORDINANCE, 2015

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Ordinance entitled “The Health Service (Benefit) (Amendment) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends prescription charges under The Health Service (Benefit) (Guernsey) Law, 1990, with effect from 1st January, 2016. As from that date charges will be £3.70.

**THE LONG-TERM CARE INSURANCE (GUERNSEY) (RATES) ORDINANCE,
2015**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends rates of long-term benefit under The Long-term Care Insurance (Guernsey) Law, 2002, with effect from 4th January, 2016.

**THE SUPPLEMENTARY BENEFIT (IMPLEMENTATION) (AMENDMENT)
ORDINANCE, 2015**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled “The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2015,” and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

Section 1(2) and (3)(a) of this Ordinance amend The Supplementary Benefit (Implementation) Ordinance, 1971, by inserting provisions which will have the effect, when calculating entitlement to a supplementary benefit, of reducing the amount of a claimant's net weekly earnings by the amount of any contributions made or premium paid by the claimant to an approved pension or retirement scheme.

The other provisions of the Ordinance amend rates of supplementary benefit under The Supplementary Benefit (Guernsey) Law, 1971, with effect from 8th January, 2016.

**THE SEVERE DISABILITY BENEFIT AND CARER'S ALLOWANCE
ORDINANCE, 2015**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Severe Disability Benefit and Carer's Allowance Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance amends rates of allowances under The Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984, (formerly known as The Attendance and Invalid Care Allowances (Guernsey) Law, 1984) with effect from 4th January, 2016.

**THE REGULATION OF HEALTH PROFESSIONS (MEDICAL
PRACTITIONERS) (GUERNSEY AND ALDERNEY) (AMENDMENT)
ORDINANCE, 2015**

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled “The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance is made under The Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012, and amends The Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015, ("the principal Ordinance"). The principal Ordinance was approved by the States of Deliberation on the 24th June, 2015, but is yet to be brought into force, pending the amendments to be made by this Ordinance.

The Ordinance gives effect to the States Resolutions following Articles XI and XII of Billet d'État No. XIV (Vol. 1) of 2015 by amending the principal Ordinance and making consequential amendments to The Health Service (Benefit) (Guernsey) Law, 1990, for the following purposes and to the following effect:

- (a) to clarify the meaning of "practising as a medical practitioner" to ensure that the prohibition against practising without local registration is proportionate to the objective of ensuring public safety;
- (b) to allow General Medical Council-registered and licensed doctors to work in Guernsey and Alderney for a very short and limited period of time, without being registered locally;
- (c) to provide for temporary registration pending registration under the Ordinance;
- (d) to provide for the register kept under the Ordinance to be used for the purposes of allocation of benefits under The Health Service (Benefit) (Guernsey) Law, 1990, and for the purpose of determining eligibility for provision of services or facilities provided by or controlled by the Health and Social Services Department (e.g. under the States Resolutions of 1990);
- (e) to establish a Registration Panel and empower the Panel to refuse applications for registration in appropriate cases based on discretionary grounds; the person appointed by HSSD to maintain the register would be authorised to refuse applications based on mandatory grounds, as it was considered that these grounds are relatively objective and can be easily applied by a senior officer without needing the judgment of the Panel;
- (f) to require registered practitioners to comply with conditions relating to conduct, appraisals and assessments;
- (g) to empower the Responsible Officer to impose conditions on the registration of a practitioner (which could include conditions or undertakings imposed by the General Medical Council);
- (h) to require all concerns, allegations and complaints regarding a registered practitioner to be referred to, assessed by, and where appropriate, investigated by the Responsible Officer or persons authorised by the Responsible Officer (whether

or not these have been referred to or are being dealt with by the practitioner's designated body);

- (i) to empower the Responsible Officer to require designated bodies and other parties to report on actions taken to address any concerns about the conduct or performance of a registered practitioner;
- (j) to extend the power to share information and to authorise information-sharing between the Responsible Officer (or Registration Panel) and designated bodies such as, the Social Security Department, the Health Service Advisory Committee and any regulator of medical practitioners abroad; but this power would not extend to other Departments and committees of the States;
- (k) to empower the Responsible Officer to serve notice on a registered practitioner, after due process is followed, to require the practitioner to take action or make changes;
- (l) to empower the Responsible Officer to vary a practitioner's registration conditions or suspend a practitioner's registration (including immediate suspension) in appropriate cases;
- (m) to empower the Registration Panel to remove a registered practitioner from the Register in appropriate cases based on mandatory and discretionary grounds, and to provide for reinstatement of the practitioner to the Register in certain cases, e.g. where a conviction is overturned;
- (n) to provide a process for decisions of the Responsible Officer in relation to registration under the Ordinance (e.g. registration conditions, notice to take action or make changes, or suspension) to be reviewed by the Registration Panel;
- (o) to provide a process for decisions made by the Registration Panel (including the Panel's determination of a review of the Responsible Officer 's decision), to be appealed to the Royal Court or Court of Alderney;
- (p) to provide for members of the Registration Panel to be excluded from personal liability, in the absence of bad faith;
- (q) to provide for the new regulatory system to be funded by an increase in the annual charge required to be paid by all registered medical practitioners under the Ordinance;
- (r) to create new offences of:
 - (i) wilfully and falsely representing or describing oneself or others as a medical practitioner of a particular kind;

- (ii) failing to comply with a requirement made by the Responsible Officer or the Panel, or of obstructing the Responsible Officer or the Panel (including anyone authorised by the Responsible Officer or the Panel);
- (iii) providing false or misleading information, e.g. where required to provide information under the Ordinance;
- (s) to ensure that HSSD continues to maintain a record of the general practitioners who are approved for the purposes of being given the privileges set out in Billet d'État No II of 1990 (access to free pathology and radiology diagnostic services and eligibility to the health benefit grant and the pharmaceutical benefit grant), but by way of annotations to be made to the register of medical practitioners kept under the principal Ordinance, instead of by way of separate lists or registers; and
- (t) to ensure that only GPs approved by HSSD, with the appropriate annotation in the Register, will be eligible for the relevant benefits under The Health Service (Benefit) (Guernsey) Law, 1990, or any Ordinance made under it.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

THE INCOME TAX (PENSIONS) (CONTRIBUTION LIMITS AND TAX-FREE LUMP SUMS) (AMENDMENT) REGULATIONS, 2015

In pursuance of Section 203 of The Income Tax (Guernsey) Law, 1975, as amended, “The Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) Regulations, 2015”, made by the Treasury and Resources Department on 18th August 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations amend The Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2010. The Regulations limit relief from tax in respect of a lump sum derived from an approved inward transfer payment made from an unapproved scheme or an overseas scheme to 30% of the value of the funds derived from the transfer. These Regulations came into operation on 2nd October 2015.

**THE COMPANIES (STANDARD ARTICLES OF INCORPORATION)
REGULATIONS, 2015**

In pursuance of section 537 of the Companies (Guernsey) Law, 2008, “The Companies (Standard Articles of Incorporation) Regulations, 2015”, made by the Commerce and Employment Department on 3rd September 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe for the purposes of The Companies (Guernsey) Law, 2008 standard articles of incorporation for non-cellular companies limited by shares with unlimited objects that are not publicly traded and that are incorporated in Guernsey on or after the coming into operation of the regulations. The Regulations repeal the earlier The Companies (Standard Articles of Incorporation) Regulations, 2010.

The standard articles prescribed by the Regulations are substantially the same as those prescribed by The Companies (Standard Articles of Incorporation) Regulations, 2010, but with a small number of amendments intended to accommodate the changes that have been made to the Companies Law since 2010. Companies incorporated using the standard articles that were prescribed under the 2010 Regulations are not affected by the new Regulations and their existing articles remain effective.

The standard articles prescribed by these Regulations will apply to all companies incorporated on or after the 3rd September, 2015, save to the extent that they are varied or disappplied in accordance with the requirements of section 16(3) of the Companies Law, and without prejudice to the power of such a company to alter its Articles in accordance with the provisions of that Law.

These Regulations came into force on 3rd September 2015.

**THE COMPANIES (DIRECTORS' REPORT EXEMPTIONS) REGULATIONS,
2015**

In pursuance of section 537 of The Companies (Guernsey) Law, 2008, “The Companies (Directors' Report Exemptions) Regulations, 2015”, made by the Commerce and Employment Department on 3rd September 2015, are laid before the States.

EXPLANATORY NOTE

Section 248 of The Companies (Guernsey) Law, 2008 requires directors of every company to prepare a directors' report for each of the company's financial years. These Regulations exempt from that requirement any company which is a "Non-Regulated Company" within the meaning of The Companies (Registrar) (Fees) Regulations, 2014 (in essence, a company the resident agent of which is an individual, resident in Guernsey, who is a director of the company and who is not a personal fiduciary licensee) and the equity share capital of which is held by the directors, or close relatives of the directors, as beneficial owners.

These Regulations came into force on 3rd September 2015.

**THE COMPANIES (REGISTRAR) (FEES FOR MIGRATIONS)
REGULATIONS, 2015**

In pursuance of section 537 of The Companies (Guernsey) Law, 2008, “The Companies (Registrar) (Fees for Migrations) Regulations, 2015” made by the Registrar of Companies on 3rd September 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the fees payable to Her Majesty's Procureur in respect of the migration from Guernsey, under Part VII of The Companies (Guernsey) Law, 2008, as amended, of supervised and non-supervised companies.

These regulations came into force on 3rd September 2015.

**THE INSIDER DEALING (SECURITIES AND REGULATED MARKETS)
(AMENDMENT) ORDER, 2015**

In pursuance of section 19(3) of The Company Securities (Insider Dealing) (Bailiwick of Guernsey) Law, 1996, “The Insider Dealing (Securities and Regulated Markets) (Amendment) Order, 2015”, made by the Commerce and Employment Department on 3rd September 2015, is laid before the States.

EXPLANATORY NOTE

This Order amends The Insider Dealing (Securities and Regulated Markets) Order, 1996, in order to replace references to the former Channel Islands Stock Exchange LBG with references to the Channel Islands Securities Exchange Authority Limited.

This order came into force on 3rd September 2015.

POLICY COUNCIL

UPDATE ON THE DISABILITY AND INCLUSION STRATEGY

Executive Summary

1. The States directed the Policy Council to report back to the States by no later than September 2015¹ with a progress report on the implementation of the Disability and Inclusion Strategy, following the unanimous acceptance of the Strategy in November 2013 (Billet d'Etat XXII) (referred to in this report as 'the 2013 Report').
2. In giving their approval, the States agreed that a number of specific work streams should be undertaken as part of the Strategy and a timetable for this work was included in the 2013 Report. This report explains the progress made in those key areas since November 2013.
3. Whilst there has been deviation from the original timetable, this is not surprising as it was only ever a guide, not a definitive plan, as to how those work streams might be executed; however, as has been acknowledged publicly by the Guernsey Disability Alliance (GDA), after a slow start, momentum increased significantly in 2015. In particular, it is encouraging to see how the Strategy is being embraced by States' departments as they progress various initiatives, something that can only be positive for the entire community.
4. Changes in priorities and the limited availability of resources have meant not all the expenditure planned for Strategy implementation in 2014/2015 has occurred. Therefore, a request is made to roll over the monies previously approved by the States until 2016 /2017.

Governance

5. Following the unanimous acceptance by the States of the Disability and Inclusion Strategy in November 2013, it was agreed that the oversight of the implementation of the Strategy should be undertaken by a Steering Group made up of different members of the community with an interest and stake in its delivery.
6. Therefore, one of the first actions resulting from the States' decision was the creation of the Disability and Inclusion Strategy Steering Group (DISSG). The Group is jointly chaired by the States Disability Champion, Deputy Wilkie, and by Jane Stephens, a former States Member and the first Disability Champion. The other members of DISSG represent business, human resources and the GDA, together with a disabled Islander and a carer. In addition, two professionals from

¹ The Policy Council originally proposed to provide an update by the end of December 2016, but this proposition was successfully amended.

the Health and Social Services Department (HSSD) and the Education Department have brought their expertise to DISSG meetings as ‘observers’.

7. Such collaborative working in taking forward a major strategy initiative is relatively rare for the States of Guernsey, although becoming more common nowadays, and the creation of DISSG at a very early stage is a clear indicator of the beginning of a real cultural shift, which is one of the key tenets of the Strategy.
8. The Policy Council retains overall responsibility for the progression of the Strategy and discharges this through its Social Policy Group, to which DISSG reports quarterly.

Vision, Purpose and Outcomes

9. One of the first actions taken by DISSG was to produce a Framework for the Disability and Inclusion Strategy, which sets out very clearly its vision and purpose, together with the desired outcomes and the strategic commitments that sit beneath those outcomes (see Appendix 1). Importantly, it identifies the work streams (hereafter called ‘Priority Areas’) that have guided the work of the Group in implementing the Strategy (see below).

Links with other strategies

10. The Disability and Inclusion Strategy has links to many other strategies and work within the States. For example, it was agreed that the Supported Living and Ageing Well Strategy (SLAWS) and the Children and Young People’s Plan (CYPP) would be the vehicles by which to identify and develop services to provide for the future care and support needs of adults and children respectively (including the all-important transition between children’s services and adult services). There have been public consultations on both SLAWS and the CYPP during 2015, in which disabled Islanders, carers and the GDA have fully participated. Reports on both these major pieces of work are intended to come to the States before the end of this political term.
11. There is also a direct link between the Disability and Inclusion Strategy and the Mental Health and Wellbeing Strategy agreed by the States in February 2013 (Billet d’État XV, July 2013).
12. It has been particularly heartening to those involved in implementing the Strategy to see how readily other States’ departments, especially those whose mandates are less obviously focused on social issues like Commerce and Employment (see paragraph 34 below), have embraced the need to consider disability issues and take account of them at both a strategic and operational level.
13. For example, the Integrated Transport Strategy (Billet d’État IX, April 2014) specifically referenced the Disability Strategy, and set aside a budget of £150,000 to progress work streams on disability-related issues. In particular, it resulted in

the States agreeing that up to 8 additional taxi licences be issued in a new licence category for vehicles specially adapted for the needs of disabled people, 4 of which are now in service.

14. Similarly, following discussions with DISSG, the Environment Department agreed to add a paragraph to the high level objectives of the draft Island Development Plan to emphasise the importance of the Disability Strategy. (Further information on these and other operational improvements is given later in this report.)

Disability Officer

15. The appointment of a Disability Officer has been crucial to the implementation of the Disability and Inclusion Strategy. At the time of the 2013 Report this post was vacant; and, unfortunately, for a variety of reasons, an appointment was not able to be made until January 2015, which has contributed to some work having to be rescheduled compared with the indicative timetable set out in the 2013 Report.
16. The Disability Officer is focused on two key work streams, namely: (i) information and raising awareness; and (ii) the audit of States' obligations; both of which are covered later in this report.

Strategic Commitments

17. The Disability and Inclusion Strategy has three Strategic Commitments as follows:
 - a. **Improving** opportunities for disabled people and carers to participate across society;
 - b. **Promoting** more positive and inclusive attitudes towards disability in the community; and
 - c. **Challenging** instances of disadvantage facing disabled Islanders and / or carers.

The work streams agreed by the States in 2013 have been assigned to each of these Strategic Commitments as shown in Appendix 1. Progress against each of those work streams is set out below.

Improving

Information and Awareness Raising – Lead Department: Policy Council²

18. The Disability Needs Survey (Stage Two) identified better access to information as something that would benefit the majority of disabled people³ and led to information provision being a Priority Area for the Strategy.

² Information provision straddles the strategic commitments of both Promoting and Improving.

19. Following consideration of the 2013 Report, the States resolved:

“to direct the Treasury and Resources Department to increase the 2014 and /or 2015 revenue expenditure budget of the Policy Council by up to a maximum of £250,000 in total, funded by a transfer from the Budget Reserve to be used for the following projects as part of the initial implementation of the Strategy:

- a. develop information for disabled people and carers for a one off cost not exceeding £150,000;*
- b. develop information for businesses and other organisations for a one-off cost not exceeding £50,000; and*
- c. assess/ audit the States obligations for reasonable adjustment and develop a plan of prioritised work at a one off cost of no more than £50,000.”*

20. As explained below, while some of the money allocated in this area will be spent in 2015, the majority will not. The Policy Council is, therefore, requesting the States to agree that: (i) this funding should be reallocated to 2016 and 2017; and (ii) the Policy Council should be given the authority to prioritise this expenditure as it sees fit, rather than funds being tied to the specific areas set out above.
21. This does not mean that those work streams will not be progressed. They remain of great importance but it may be that some of the initial funding agreed will need to be spent on resources dedicated to driving the Strategy forward. If this approach is taken, it is inevitable that a further approach for funding will be necessary once the £250,000 is spent. This point is expanded upon further in paragraphs 97-101 below.

Information for Disabled People and Carers (including Parents of Children with Impairments)

22. Information for disabled people, carers and parents of children with impairments comprises four aspects:
- a. a wide range of relevant, easy-to-access online information;
 - b. outreach to disabled Islanders and carers through the media;
 - c. information and training relating to the new disability equality legislation; and
 - d. a service to provide/convert resources into accessible formats.
23. Baseline research has been undertaken by the Disability Officer to collect information about care and support services, activities, sports, education and training, financial benefits, grants and awards, Third Sector activity, States’

³ It was also raised in different formats and on different occasions with successive States Disability Champions.

activity and areas covered by the business sector. This work has been invaluable in establishing a baseline and identifying areas where more work is needed⁴.

24. However, given the limited resources available to progress the Strategy, it has been impossible to progress multiple work streams simultaneously but, to date, two specific priority actions have been identified: (i) to establish a website dedicated to providing information on services for disabled Islanders and carers; and (ii) extending the scope of an existing contract with a specialist provider on accessibility information for premises in Guernsey. These actions have the potential to bring about many benefits and are looked at in more detail below.

Website

25. The Disability Officer has been providing information to different people and organisations on a face-to-face basis and through e-mails, etc. However, it has been agreed that to have maximum impact, coupled with a wide reach, a user-friendly website should be established for disabled people and carers. This would also be useful for professional staff, other front line staff, and volunteers with whom carers and disabled people come into contact.
26. It is proposed that, while this will be a website based on the same technical platform as currently used by the States, it should be a separate site, as this will allow greater flexibility and provide a clear identity to enable the site to be taken over, in due course, by an independent body such as the proposed Equality and Rights Commission (see paragraphs 86-90 below).
27. Recognising that information provision is a continuous task as data changes, it is intended that each contributor to the website will be responsible for updating its own data, albeit this would link easily to a central repository. By using a linked model for the website and enabling organisations to update information themselves, there is a reduction in the cost of ongoing maintenance⁵.
28. It was recommended in the 2013 Report that the Policy Council seek tenders for the provision of information and its ongoing maintenance. In respect of the proposed website, the contract with the States' current supplier for web hosting was part of a procurement framework which went out to tender in July this year. At the time of writing, the cost of providing the website had yet to be determined.
29. The Policy Council remains committed to working with disabled Islanders and carers to ensure that information services meet their needs. The aim of the website is, therefore, to make information easily available at all times. The most significant impact of improved information services should be enabling disabled

⁴ This work will also assist with the CYPP and SLAWS, the consultations on which have affirmed the problems associated with the lack of readily accessible information on services.

⁵ There will be a requirement for ongoing training for all contributors following an initial launch and training. This cannot be undertaken until the website and its repository of information has been developed.

Islanders, carers and parents of children with a disability to access the right support at the right time.

30. Separate to the above, work is currently under way on updating the whole of the States' website, which will include making it more accessible to disabled people. Whilst work has not specifically started on a service to provide/convert the data held on the States' website into accessible formats, the development of the website and the audit of States' obligations (see paragraphs 71-75 below) will help identify changes that need to be made to improve accessibility in this regard.
31. However, it is accepted that, whilst the website is a relatively simple and inexpensive way to meet the needs of a broad range of people, it will not be sufficient on its own, as some people will inevitably need additional help or support. As stated earlier, it has been necessary to prioritise actions but the intention is that, once the website is up and running, a gap analysis will be carried out to establish what further work might be done to try to meet individual needs as far as possible. This might require a tender exercise to be undertaken to find a provider or providers to meet these needs.

Accessibility information

32. Research has been undertaken under an existing contract with [DisabledGo](#)⁶ to provide additional accessibility information on premises in Guernsey. At the time of writing, the Treasury and Resources Department had just agreed to release £20,000 of the £150,000 allocated for the purpose of providing information to disabled people and carers to expand the listings under DisabledGo to include visitor accommodation, public buildings, polling stations, high schools, etc. As well as providing information on premises, it is also the intention to include route information for people walking from car parks to airport gates and clinics in the hospital, as well as information on routes for visitors in St Peter Port.
33. The availability of this information is of primary importance to visitors to the Island who have no prior knowledge of which venues are accessible and which are not. Also, importantly, the fact that businesses and public bodies are keen to have their premises inspected by DisabledGo indicates a willingness to address accessibility issues in a way that perhaps has not been so apparent previously. If issues are identified and addressed, this will have the knock-on effect of improving access for Island residents too. Again, this is an indication of the cultural shift necessary for successful implementation of the Strategy.
34. The Commerce and Employment Department has made it a condition, starting this year, that all licensed visitor accommodation must provide an access statement. It

⁶ DisabledGo is a leading provider of accessibility and equality services established in 2000. A not for profit social enterprise, it works with more than 250 public and private sector organisations, including the Isle of Man. It has worked with the States since September 2011 and launched an access guide to 500 venues across the Island in March 2012. This was developed in partnership with the GDA and in consultation with disabled Islanders. Its contract to maintain and develop information in Guernsey runs until 2017.

has been agreed with the Commerce and Employment Department that a DisabledGo listing would be sufficient to meet this requirement.

35. The above should be of benefit in promoting Guernsey as a holiday destination; indeed, it is envisaged that if Guernsey were to become an accessibility-friendly island, visitor numbers could improve significantly, which would clearly have an economic value to the Island. Disabled Islanders will also benefit from any alterations made to premises in order to improve their accessibility.
36. Providing more detailed information on premises not only helps people using these buildings, but also helps the owners to become more aware of how accessible their premises are. In turn, this will help them to prepare for the introduction of disability discrimination legislation in due course and to attract more customers to their premises.

Information for businesses and other organisations

37. The provisions of the disability discrimination legislation, which will be the subject of a further report in 2016, have yet to be finalised. The legislation will cover the areas of employment; provision of goods and services; and education. Thus its effects will be far-reaching.
38. However, legislation does not need to be in place for best practice to be followed and guidance issued. Nonetheless, because proposals for disability discrimination legislation are now not due to go to the States for consideration this political term (see paragraphs 49-60 below), it would be a duplication of effort to issue specific guidance too early as this might cause confusion when the consultation in respect of the legislative proposals is rolled out.
39. In the meantime, as detailed in paragraphs 61-64, progress has been made in respect of employment matters in the form of a contract to provide supported employment services, agreed between HSSD and the Guernsey Employment Trust (GET), which includes providing assistance for disabled people to find, or to retain, employment. This will help to start changing the mind-sets of employers, whilst at the same time potentially opening up greater opportunities for disabled people.
40. Working with the Third Sector is a core social policy theme, and because there is synergy in one supplier which already has contacts with employers being used to provide information to businesses, it is intended that, subject to the States' procurement rules being followed, the contract with GET be extended to provide information and training to employers through different media, including face-to-face.
41. This would enable GET to employ a dedicated member of staff as an Employer Disability Adviser, who would carry out a range of duties that would address the employment aspects of the Disability and Inclusion Strategy. This would include contacting employers in Guernsey to provide advice, guidance and training regarding good practice in the recruitment, employment and retention of

employees with disabilities/health issues. The postholder would also assist with promoting and explaining the forthcoming disability discrimination legislation, as well as providing practical suggestions around the application of ‘reasonable adjustments’⁷.

42. Additionally, the postholder would advise on a range of good practice activities that employers could consider adopting to demonstrate their commitment to the recruitment and retention of disabled Islanders, as well as providing advice to employees regarding their rights under the disability discrimination legislation.
43. It is also planned that GET will draft a ‘Good Practice Guide for Employers’ including one bespoke to small businesses.
44. Using GET’s services in this way will provide concrete evidence of what will be required in the way of information and advisory services to employers once the disability discrimination legislation is in place. This is important because, at present, the Policy Council is only able to enter into a 1-year agreement with GET, as the States has only agreed one-off funding of £50,000 for this purpose, all of which will be consumed by GET over this 12 month period. However, this information and training will inevitably be an ongoing requirement, for which appropriate budgetary provision will need to be made. It follows that the Policy Council will be monitoring the usage of this service closely in order to determine longer term requirements.
45. It also important to note that, currently, there are no locally-based organisations equivalent to GET that could provide specialist information and advice to employers and others regarding the goods and services aspects of the forthcoming legislation. The Policy Council considers this to be a significant gap that will not easily be filled, not least because if GET is contracted as planned, without the budgetary flexibility referred to in paragraph 20 above, there will be minimal funding remaining for this purpose.

Information and awareness raising for the general public

46. As a result of a successful amendment placed by Deputies Bebb and Stewart, the States agreed in 2013 to provide £80,000 more than was initially proposed for the purposes of information provision, particularly in relation to developing a multi-media campaign to raise awareness and help improve attitudes towards disabled people and carers, and to inform everyone in the Island about the Strategy and the proposed disability discrimination legislation.

⁷ Disability discrimination does not require people to be treated the same as everyone else but to be treated differently so they can have the same opportunities. This requires barriers to be removed that prevent disabled people accessing goods, services, education, employment, transport, etc. This removal of barriers is known as ‘reasonable adjustments’ and involves making adaptations to working practices, workplaces, business premises, public venues, policies and procedures, etc, to make them accessible to disabled people, while balancing the needs of the organisation or employer in question.

47. The main focus of this activity will be timed to precede the introduction of the disability discrimination legislation. As such, the Policy Council has, thus far, requested Treasury and Resources' agreement to draw down only £20,000 of the £150,000 voted by the States (see paragraph 32). As noted earlier, it is proposed that the remainder of these monies be rolled over to be used in 2016/2017, to allow a co-ordinated awareness campaign around the introduction of the legislation.
48. The Policy Council believes that delaying this campaign to enable it to be closely aligned to the work on the legislation will prove the best value for money.

Disability Discrimination Legislation – Lead Department: Policy Council

49. Disability discrimination legislation in other jurisdictions typically focuses on three or four main areas:
- Employment – which affects financial security, social mobility and personal wellbeing;
 - Accessible environments – which affect what a person can do;
 - Accessible goods, services and transport; and
 - Education – which affects personal wellbeing and general life chances.
50. Following consideration of the 2013 Report, the States resolved:
- “To approve, in principle, the enactment of legislation under the Prevention of Discrimination (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004 to prevent discrimination against disabled people and carers and provide for equality of opportunity, and direct the Policy Council to revert to the States with detailed proposals for such legislation following consultation with other States Departments, and representatives of the business sector, disabled people and carers, before the end of 2015.”*
51. Disability discrimination legislation is a cornerstone of the Disability and Inclusion Strategy, and will signal that the States and the whole Island community take seriously the issue of discrimination by reason of disability. It is also a precursor to demonstrating compliance with the UN Convention on the Rights of People with Disabilities (UNCRPD), and is an important basis for much of the information provision to the general public and to businesses.
52. Soon after the 2013 debate, the Policy Council established a Disability Legislation Group (DLG), under the chairmanship of the then Chief Minister, Deputy Harwood, to draw up proposals for legislation appropriate for Guernsey⁸. Since resigning as Chief Minister, Deputy Harwood – himself a retired Advocate - has continued to chair the DLG, which comprises two further Advocates - one from

⁸ The DLG reports to DISSG.

53. the Law Officers' Chambers, the other representing the Chamber of Commerce - together with a senior staff representative from the Employment Relations Service of the Commerce and Employment Department and a representative of the GDA.
54. The proposed legislation will be complex and touch on many aspects of Guernsey life, including employment matters and how goods and services are provided. It was, therefore, important to bring together representatives of both business and the disabled community at an early stage, to ensure that all facets of the new legislation were understood and appreciated before there was consultation on its constituent elements, and prior to proposals being considered by the States. This is a further example of the collaborative working that will be key to delivering the Strategy across the community.
55. The DLG has met frequently, during which differing and often conflicting views have been able to be aired. Whilst agreement has not been reached on all aspects of the proposed legislation and its application, consensus has been reached on a number of areas and all parties have gained a better understanding of the issues involved. In particular, the deliberations of the DLG have been instructive in determining what matters should be considered for public and stakeholder consultation, and in identifying areas where policy decisions still need to be made.
56. The discussions within the DLG have highlighted the complexities of the issues and shown that sufficient time will be needed to enable informed consultation to occur, and to enable all views to be taken into account, before the legislative proposals are finalised. To allow insufficient time for this process would represent too great a risk to the successful implementation of the legislation. Regrettably, this means that it will not be possible to return to the States with detailed proposals this political term as planned. Notwithstanding this, the Policy Council remains firmly of the view that this work stream is a high priority and it will be treated as such. The Policy Council is also of the opinion that, despite the fact that disability discrimination legislation will not be introduced as soon as originally hoped, there is much that can be done, even in the absence of legislation, to improve the lives of disabled Islanders.
57. To give some sense of the scope of the legislation, consultation will need to take place with businesses, associations, charities and other Third Sector organisations, transport providers (including airlines and ferry providers), insurers, landlords, pre-schools, schools, colleges, and other providers of training and higher and further education.
58. It is also important that States' departments are engaged in this consultation, not only because the States is the Island's biggest employer, but also because it is the largest provider of goods, services and education locally. Effectively, there will be a phased approach, which will involve ensuring that a high degree of consultation and engagement work is carried out internally before pushing the consultation out more widely. This will ensure that States' departments have the opportunity to consider the implications of the impending legislation and will therefore be better placed to deal with the inevitable queries that will come their way during the more general consultation phase.

59. Employer groups, unions and working Islanders will all need to be consulted on the employment aspects of the legislation. The views of disabled people and carers will also need to be fully considered.
60. As part of its deliberations, experts on the Canadian and UK systems have provided input to the DLG and given wider public presentations. The UK's Office for Disability Issues has also provided some advice. However, it is important to note that because it has already been agreed that Guernsey's legislation will be based on the 'social model' of disability, it will not just be a matter of replicating the UK legislation which is based on the 'medical model' of disability⁹. This is one reason why developing legislation specific to Guernsey has proven challenging.
61. Despite the challenges, the Policy Council is anxious not to lose momentum on this work stream, and has considered what a realistic programme for delivery might look like. It is necessary to sound a note of caution, as a key reason for the inability to bring forward proposals this political term as planned has been a lack of suitable resources. In the ongoing absence of such resources, it is difficult to be definitive about time scales for delivery. However, in broad terms, the plan looks as follows:

Activity	Approximate time needed	Completion target date
Considering and finalising policy decisions	2 months	Q4 2015
Stakeholder engagement activity (prior to official consultation)	2 months	Q1 2016
Consultation	4 months	Q2 2016
Analysis of consultation feedback and drafting Policy Letter	3 months	Q3 2016
Policy Letter before Assembly for debate		Q3 2016

⁹ The Disability and Inclusion Strategy is itself based on the social model of disability: "*The social model of disability identifies systemic barriers, negative attitudes and exclusion by society (purposely or inadvertently) that mean society is the main contributory factor in disabling people i.e. it is the society as a whole that is responsible for creating barriers to full participation of persons with disabilities, and it is the society as a whole that has the responsibility to remove them.*" (Delia Ferri, 2011) By contrast, the medical model takes the view that it is a person's impairment that is the issue.

Supported and Mainstream Employment – Lead Department: Social Security Department

62. The Supported Employment Service was, until recently, provided by HSSD. However, based on ideas from the local charity, GO Communicate, the Guernsey Community Foundation (GCF) facilitated the creation of the Guernsey Employment Trust (GET), based on successful models elsewhere, with the result that, as noted above, from 1 May 2015, GET has entered into a Service Level Agreement with HSSD to provide supported employment to disabled people.
63. Specifically, GET will:
- i. address the employment needs of job seekers who have disabilities;
 - ii. provide a flexible and person-centred approach to service delivery through effective education and work based training;
 - iii. support employers and the business community in Guernsey to recruit and retain people with disabilities; and
 - iv. work in partnership with its stakeholders, disability organisations and the local community.
64. This is part of a broader suite of employment services available to disabled people. These are detailed in Appendix 2, which sets out the services provided either directly through the Social Security Department (SSD), or indirectly by Third Sector organisations through States' grants payable through SSD.
65. Joint training of SSD and GET staff has been helpful in promoting better understanding and joint approaches, while changes to sickness certification and other benefit changes initiated in 2013 have been designed to help people stay in work as far as possible, whether they are a carer or a disabled person.

Frameworks – Lead Department: Health and Social Services Department

66. Three frameworks were identified as Priority Areas as follows:
- Framework for People with Autism and Communication Difficulties
 - Framework for People with Learning Difficulties
 - Framework for People with Dementia
67. HSSD has started work on an overarching model for preparing these frameworks and, specifically, on the Framework for Autism.
68. DISSG has agreed that the Framework for Autism and Communication Difficulties should be split into two. Whilst people with autism may have communication difficulties, there are a number of other conditions that would lead to communication difficulties. Looking at autism first will help with a future

Framework on Communication Difficulties, but it was felt it would be too large a piece of work to look at both together.

69. HSSD is jointly contracting with the Policy Council, Autism Guernsey and the local branch of the National Autistic Society to use the Research Director for Research Autism to help with this work. This will be funded jointly by HSSD, Autism Guernsey and the local branch of the National Autistic Society. The GCF has also agreed to fund a project post.
70. Initial meetings have taken place and work will be programmed over the next 18 months to develop the Framework for Autism.
71. It is hoped that a similar model of joint working with Third Sector organisations can be used to develop the other frameworks.

Promoting

Audit of States Obligations – Lead Department: Policy Council

72. The advent of new disability discrimination legislation means that, to demonstrate compliance with the UN Convention, the States, both as an employer and as a provider of goods and services, will need to ensure that it meets the requirements of the new legislation. It is inconceivable that the States could promote such legislation without committing to putting its own house in order as a priority. This has been recognised by the fact that the States has agreed funding from the Budget Reserve not exceeding £50,000 for the purpose of carrying out an audit of States' departments to help them to prepare for the forthcoming legislation.
73. It is intended that this key piece of work should start later this year. This a core piece of work for the Disability Officer.
74. A number of options for carrying out the audit have been considered and the one currently favoured is to contract with an external specialist to provide a self-audit tool specifically designed for Guernsey. This will result in an implementation plan for each department, to be carried out over a 3-5 year period.
75. The Disability Officer has carried out extensive initial engagement work with States' departments, which has shown them to be amenable to this approach. This is most encouraging, given that the States needs to take the lead in demonstrating good practice to other employers and service providers. Furthermore, if the States of Guernsey embrace the principles of disability equality and inclusion, this will set the tone for the community. At the time of writing, a procurement process to select a suitable contractor had commenced.
76. Whilst it is hoped that the procurement can be concluded in 2015, the Policy Council is recommending that, should this be delayed, the monies previously agreed by the States for this purpose be rolled over to 2016/7.

United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) – Lead Department: Policy Council

77. Having disability discrimination legislation in place is key to demonstrating compliance with the UNCRPD¹⁰ and, therefore, the Convention's extension to Guernsey.
78. Given that such legislation has not yet been enacted, extension will not be by the end of this year, as originally anticipated, but work will continue in the meantime, as resources allow, to ensure that the Convention's articles are progressively complied with.

Challenging

Capacity Legislation – Lead Department: Health and Social Services Department

79. In May 2014, after consideration of a Requête led by Deputy Perrot, the Policy Council was directed to investigate the introduction of lasting powers of attorney and to report back to the States by June 2015.
80. At its meeting in April 2015, the Chief Minister made a Statement to the effect that, by agreement, this work stream had been subsumed within the wider work on capacity legislation being undertaken by HSSD, which was progressing ahead of the original schedule.
81. Workshops have been undertaken with relevant parties and, in June, some States Members attended a presentation on the proposals for capacity legislation which, at their heart, are about whether a person has the necessary skills and understanding to make fundamental decisions about his or her own life. At the time of writing, a policy letter from HSSD was expected to be considered by the States before the end of 2015 which is earlier than was anticipated in the original timetable of the Disability and Inclusion Strategy.
82. It is intended that the capacity legislation will cover areas such as:
 - deciding whether or not a person has capacity to take a decision:
 - allowing a person to appoint another person to act on their behalf to take decisions in their best interests, should they lose capacity, (which is the provision for lasting powers of attorney);

¹⁰ The UNCRPD was developed in 2005/6 in response to a growing realisation that most countries were finding difficulty in applying universally recognised human rights to the situations in which disabled people found themselves. The function of the Convention is to provide more detailed guidance on how existing rights should be interpreted in the context of disability, but it does not create any new rights for disabled people. Most countries are signed up to the UNCRPD.

- allowing a person to take legally binding decisions regarding their medical treatment, and providing for advance decisions, including decisions to refuse treatment, should they lose capacity;
- what can be done when a person has lost capacity without appointing another person to take decisions on their behalf or without making legally binding decisions regarding their medical treatment;
- what restrictions might be placed on people who lack capacity; and
- what safeguards need to be put in place to ensure that a person's best interests are being met, when someone lacks capacity, which would include deprivation of liberty safeguarding (sometimes referred to as DOLS).

It will also result in greater transparency and accountability for people making decisions on someone else's behalf, providing a system to ensure that the most appropriate person is making the best decisions, in the best interest of a person lacking capacity.

Safeguarding Vulnerable Adults – Lead Department: Health and Social Services Department

83. Unlike children, where there is an Islands' Child Protection Committee, there is no equivalent body to protect the needs of vulnerable adults (alternatively known as 'adults at risk'), who may be at risk of significant harm or exploitation as result of either their health condition and/or their personal circumstances.
84. Not all disabled adults are at risk, as a person with a disability who has the mental capacity to make decisions about their own safety could be perfectly able to make informed choices and to protect themselves from harm; however, in the absence of coordinated policies and procedures, there are many adults throughout our community who may need effective protection.
85. Originally, leadership of this Priority Area was assigned to the Home Department, which had undertaken some initial research into this area. However, earlier this year it was agreed that responsibility should pass to HSSD, as it is health and social care professionals who come into the closest and most regular contact with the majority of disabled adults and other adults at risk. Furthermore, HSSD had taken steps to appoint a new Safeguarding Advisor for Adults. Accordingly, a proposition formally to recognise this transfer of responsibility, which involves rescinding Resolution 8 on Article IX of 27th November 2013, is included in this report.
86. Separately, but of relevance to this area of work, HSSD has embarked upon a review of care regulation covering both institutions – hospitals, nursing and residential homes – and domiciliary care provided to people in their own homes.

Equality and Rights Organisation

87. Following debate of the 2013 Report, the States resolved:

“To approve, in principle, the establishment of an equality and rights organisation, based on the Paris Principles¹¹, but defer the implementation of such an organisation dependent on:

a. a business plan being developed stating in detail the functions, staffing resources, costs and charges for such an organisation; and

b. any additional funding required being available and the States having given priority to the establishment of an organisation through any prioritisation process in effect at that time.”

88. At the time of that debate, it was envisaged that an Equality and Rights Organisation could be developed with the following functions:-

- promoting – changing attitudes through awareness-raising campaigns and public education;
- removing barriers – by providing specialist information, education and advice to businesses, States’ departments, and individuals on their rights and obligations particularly in relation to reasonable adjustment; administering a reasonable adjustment fund, if established; providing early solutions to disability-related issues, to avoid cases progressing to tribunal wherever possible by acting as an arbitrator and impartial advisor;
- improving - by examining individual complaints, and participating in litigation and reviews of services;
- monitoring - by reviewing legislation and policies, and examining the state of implementation, collecting and disseminating relevant data and assisting with enforcement of legislation; and
- empowering – by acting as a focal point for disability and equality matters, and acting as a first point of contact for disabled Islanders and carers who need additional information or support.

89. However, rather than establish a separate organisation just for the equality and rights of disabled people and carers, it was proposed that this should be developed into an Equality and Rights Organisation. It was envisaged that this would be an

¹¹ These are a set of core minimum recommendations adopted by the UN General Assembly relating to the status and functioning of national institutions for the protection and promotion of human rights. Article 33(2) of the UNCRPD requires those states party to the Convention to take these principles into account when designating or establishing mechanisms to promote, protect and monitor implementation of the Convention. They were set out in Appendix 7 to the 2013 Report.

independent statutory body for the protection and promotion of all equality and human rights issues, including those under the Policy Council's equality and rights programme, which comprises:

- Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)
- Disability and Inclusion Strategy
- Civil Partnership/Union Civile
- Conventions relating to Children and Young People
- Convention on the Elimination of All Forms of Racial Discrimination (CERD)

90. Since 2013, further research into the possible functions of such an organisation has shown that, in the absence of any experience, it is very difficult to predict case-loads and hence scope staffing and other resources, identify costs and develop possible charges for such an organisation. Consequently, it would prove difficult and time-consuming to develop a meaningful business case that could be presented with confidence at this time.

91. It has also become clear that this is a complex area that requires a level of dedicated resource to carry out preliminary work that simply does not exist at present. In order to give this work stream the priority it deserves, the Policy Council has identified that an additional resource is needed.

Implementation by States Departments and Committees

92. At the heart of the Disability and Inclusion Strategy is the need for all States' bodies to become more aware of the needs of disabled Islanders and to embrace and embed the principles of the Strategy in their policy-making and day-to-day operations.

93. This was specifically referenced in the Resolutions on the 2013 Report, when it was resolved to direct Departments to:

“
 ...
b. take account of the Strategy when developing strategies, policies, plans, procedures and when making changes to services or capital works;
 ...”

94. Many States' departments have used the Disability and Inclusion Strategy to inform their own work since 2013. This has included everything from the addition of a strategic commitment to “equality of access to justice” in the Criminal Justice Strategy, to the Housing Department revising its allocations policy to ‘fast track’

applicants with physical and mental impairments. (Details of work undertaken by each department are set out in Appendix 3.)

95. In addition to the work carried out by departments, upon the recommendation of the States Assembly and Constitution Committee – and, importantly, ahead of the 2016 Election - the States agreed changes regarding eligibility both to stand and to vote in future elections (Billet d'État XI, June 2015). These changes give a voice to Islanders with certain impairments that previously had been denied the right to have their say in electing the government of the Island.
96. The Policy Council places on record its appreciation of the efforts of all States' bodies to adopt and apply the Strategy, as these are already making a real difference to the lives of disabled Islanders and carers.

Partnership working

97. The implementation of the Strategy has involved close working with Third Sector and private organisations. Both have representation on DISSG and the DLG. Whilst this partnership approach remains in its infancy, the experience to date has been very positive and the Policy Council looks forward to the continuation and expansion of such partnership working.

Resources

98. As alluded to earlier in this report, delivery of work streams under the Strategy has been hampered, and will continue to be hampered, by a lack of dedicated resources. The fact that the right resources have been in short supply has meant that the £250,000 allocated to the Strategy has not been spent in 2014 and 2015 as envisaged. However, it may be helpful to explain what expenditure has been approved to date, as well as to consider, in broad terms, the additional resources likely to be needed to make meaningful progress with implementation of the Strategy.
99. Approved expenditure is as set out below:

Contract with GET (see paras 39-44)	£50,000
Contract extension with DisabledGo (paras 32-36)	£20,000
TOTAL	£70,000

100. Therefore, of the original £250,000 allocated to the Strategy in respect of specific areas, £180,000 remains unspent. It is evident that significant progress cannot be made with implementation unless suitable resources can be made available. The

Policy Council believes that if it could be granted the flexibility to prioritise the spending of the £180,000, subject to the approval of business cases by Treasury and Resources, it would be able to make more meaningful progress.

101. However, £180,000 will not be sufficient for all the work that remains, which includes, but is not limited to, the following, some of which has already commenced:
 - Self-audit of States' obligations
 - Communications and consultation in respect of new disability discrimination legislation
 - Provision of information regarding legislation to a large range of interested parties
 - Provision of information about support and services, beginning with the creation of a States' website
 - Investigation into the establishment of an Equality and Rights Organisation
102. Consequently, the Policy Council wishes to give notice that a further request for funding is inevitable once the balance of the original £250,000 has been allocated, as it is simply not possible to deliver the broad range of work required whilst relying solely on the one-off funding agreed in 2013.

Conclusions

103. Admittedly, the implementation of the Strategy started slowly but during 2015 has picked up pace, as has been acknowledged publicly by the GDA. In particular, it is encouraging to see how the Strategy is being embraced by States' departments as they progress various initiatives, something that can only be positive for the entire community.
104. However, there is no doubt that if more suitably skilled resources could have been available to devote to the various Priority Areas then progress would have been more advanced. In particular, if momentum is to be maintained and accelerated, then additional staff with policy-making, research, change and project-management skills are essential. The Policy Council acknowledges that these are capacity and capability issues that will need to be addressed as part of Public Service Reform.
105. Furthermore, although expenditure to date has been limited, it is already evident that the 'one-off' funding agreed by the States in 2013 will be insufficient to provide adequate information, advice and training on an ongoing basis to employers and others. The Policy Council will keep this under review as part of its future business planning and bring resource proposals to the States as necessary.

Recommendations

106. The Policy Council recommends the States:

- (i) To note this report providing an update on the implementation of the Disability and Inclusion Strategy;
- (ii) To rescind Resolution 8 on Article IX of 27th November 2013, and to transfer lead responsibility to the Health and Social Services Department for the development, in conjunction with other States' departments, of policies and procedures for safeguarding vulnerable adults, having regard to those already in place for children;
- (iii) To direct the Treasury and Resources Department, subject to its approval of appropriate business cases, to transfer to the Policy Council's Revenue Budget for 2016 and/or 2017 up to £180,000 from the Budget Reserve for the purpose of progressing the Disability and Inclusion Strategy;
- (iv) To note that further requests for resources to facilitate delivery of the Disability and Inclusion Strategy will be forthcoming.

J P Le Tocq
Chief Minister

28th September 2015

A H Langlois
Deputy Chief Minister

Y Burford
P L Gillson
S J Ogier

R W Sillars
M G O'Hara
K A Stewart

P A Luxon
D B Jones
G A St Pier

Appendix 1

Disability and Inclusion Strategy Framework

Social Policy General Objectives	We have a social environment and culture where there is active and engaged citizenship	We have equality of opportunity, social inclusion and social justice	As individuals we take personal responsibility and adopt healthy lifestyles					
Social Policy Themes	Ensuring sustainability of provision in relation to funding, workforce and the social environment	Working with the third sector	Focusing on prevention rather than reactive crisis management					
Strategy Purpose	To improve the quality of life of disabled people and carers through changing attitudes							
Vision	To sustainably transform society so that disabled people and carers can be active and engaged socially, economically and culturally							
Outcomes	Inclusive and accessible communities Disabled people and carers live in accessible and well designed communities with opportunity for full inclusion in social, economic, sporting and cultural life.	Personal and Community support Disabled people, their families and carers have access to a range of supports to assist them to live independently and actively engage in their communities.	Learning and skills Disabled people and carers achieve their full potential through their participation in an inclusive high quality education system that is responsive to their needs. Disabled people and carers have opportunities to continue learning throughout their lives.					
	Economic security Disabled people their families and carers have reasonable economic security, enabling them to plan for the future and exercise choice and control over their lives.	Rights protection, justice and legislation Disabled people and carers have their rights promoted, upheld and protected.	Health and Wellbeing Disabled people and carers attain highest possible health and wellbeing outcomes throughout their lives.					
Strategic Commitments	Improving opportunities for disabled people and carers to participate across society.	Promoting more positive and inclusive attitudes towards disability in the community.	Challenging instances of disadvantage facing disabled Islanders and/or carers.					
Priority Areas	Supported and Mainstream Employment	UN Convention on the Rights of People with Disabilities	Capacity Legislation					
	Framework for People with Autism and Communication Difficulties	States' Obligations	Safeguarding Vulnerable Adults					
	Framework for People with Learning Difficulties							
	Framework for People with Dementia							
	Legislation							
	Information and awareness raising							
	Equality and Rights Organisation							
Key Principles	Respect	Non-discrimination	Participation and inclusion	Acceptance	Equality of opportunity	Accessibility	Gender equality	Respect for children
Key Enablers	Training	KPIs Data Collection and Measurement	Communication and Awareness Raising	Project Management	Administration			

Appendix 2

Supported Employment

Job Centre Team							Supplementary Benefit Team	Incapacity Benefits Team		Third Sector
Employment Officers	Work Rehab Officers	Case Manager	Job Centre Support Contract	Training and Development	Community and Environmental Projects Scheme	Acts as SSD's Medical Adviser across all areas of the business **Moving to new model		Supporting Occupational Health & Wellbeing project (SOHWELL)	Medical Adviser	
<ul style="list-style-type: none"> • Vacancy service • Job-matching service • Redundancy support • Job placement • Recruitment grant • Work trial • Work experience • Work focused meetings • Unemployment review meetings • Job start expenses • Voluntary work • Back to work bonus • Mandatory work • 1-2-1 support • Incapacity • Unemployment • NEEs 			Professional recruitment consultants working with employers and jobseekers Referral from Job Centre based on set criteria Employer engagement expertise Job placement	Short-term training Basic skills training Kick Start GOALS Suite of College of FE courses funded by SSD Stepping in scheme	re-establishing a work ethic re-introducing a work routine developing team work reinforcing appropriate workplace behaviour establishing aptitude and skill sets increasing basic skills and	Acts as SSD's Medical Adviser across all areas of the business **Moving to new model Occupational Health expert Disability expert Delivers training to GPs in incapacity assessment Will deliver workshops to healthcare professionals Will promote improved approaches to	Supporting Occupational Health & Wellbeing project (SOHWELL) Targeted incapacity case management Redesigned medical certificate Early intervention Independent medical assessment Gradual return to work	<p>Medical Adviser</p> <p>Acts as SSD's Medical Adviser across all areas of the business **Moving to new model</p> <p>Occupational Health expert Disability expert Delivers training to GPs in incapacity assessment Will deliver workshops to healthcare professionals Will promote improved approaches to</p>	SSD grants paid to various charitable organisations by States Resolution ***Grant scheme to support work rehabilitation initiatives *Placements through SSD's mandatory work scheme SSD liaison with individual charities SSD presentations as requested GO (giving opportunities	

Job Centre Team				Supplementary Benefit Team	Incapacity Benefits Team	Third Sector	
<ul style="list-style-type: none"> • barriers • Information & advice • Referrals to Supported Employment • Referrals to other agency schemes (e.g. Karabiner) • Employer engagement • Job Fairs • Sanctions • Case conferences 	Service development	Food & Retail Skills Shop Training centre at Burnt Lane, St Martins "Get into ..." range of courses Childcare costs to attend training	employability by taking account of employers needs arranging work experience delivering training building self confidence developing confidence in ability to learn recognising individual progress and success	OH with employers Strategic input to SSD policies	Return to work plans Back to work bonus Liaison with SSD's medical Adviser Liaison with Primary Care Committee Liaison with Mental Health Services Liaison with MSG Training of practitioners Industrial Disablement Benefit (retraining)	GPs in incapacity assessment Will deliver workshops to healthcare professionals Will promote improved approaches to OH with employers Strategic input to SSD policies	to Guernsey's young people MIND Guernsey Community Foundation Prince's Trust Caritas

Job Centre Team			Supplementary Benefit Team	Incapacity Benefits Team	Third Sector
				costs) · Referrals to Job Centre · PCMHWS & contract monitoring of this SSD funded service	

Challenges	Developments	Training of staff	GAPs	Duplication
<p>Accessing proven motivational interventions for jobseekers</p> <p>Employer engagement</p> <p>Changing the mind set of some of the long-term sick who have capacity for work, but have fixed views</p> <p>Educating employers regarding the employment of</p>	<p>*Mandatory work scheme to commence in phases from December 2014</p> <p>**Moving to new model as part of SOHWELL project</p> <p>Social Welfare Benefits Investigation Committee (SWBIC) will also look at the earnings disregard and benefit limitation</p>	<p>SSD would welcome access to training on:-</p> <p>Employer engagement</p> <p>Dealing with people with disabilities</p> <p>Motivational techniques</p> <p>Changing mind sets</p> <p>Training has not always been</p>	<p>Resolving what is sometimes referred to as the “benefit trap”, but this will be a work stream of the SWBIC in 2015</p> <p>***Third sector in other jurisdictions often provide work rehabilitation services commissioned by Social Security, but hopefully SSD’s new grant scheme will kick start this provision locally</p>	<p>Vast majority of SSD clients will be clients of other agencies, but only SSD has access to individual benefits data</p>

<p>people with a disability</p>	<p>OH advice line for SME's Partnership working with HSSD's OH service Development of Guernsey Employment Trust (see box below)</p>	<p>easy to source from providers with experience of dealing with our client base, but if coordinated as part of a wider agency requirement this may be more successful.</p>		
<p>Guernsey Employment Trust</p>				
<p>The Health & Social Services Department's has transferred its supported employment services and resources to the Guernsey Employment Trust (GET). This has meant change for Interwork Services employment support team, the Clean-It team, and a redirection of the HSSD grants made to Grow and the Ron Short Centre. GET's strategic aims are to improve the impact of the investment of resources, offer meaningful employment opportunities, create a self-sufficient social enterprise and provide effective education and work based training. The services to be provided include the supported employment team, work experience placements, a work preparation team, a job club, supported employment scheme, social enterprise opportunities and an employers' consultancy and advisory service.</p>				

Appendix 3

Responses from Departments

Commerce and Employment Department

Thank you for your letter that sought information from this Department on work done in the last 18 months either specifically in support of the implementation of the Strategy or which takes account of the Strategy and its overall aims.

As regards the direct support of Strategy implementation work, and in the light of the requirement of the Strategy to extend the protections for workers to encompass discrimination on the grounds of disability, we have been pleased that Mrs Toni Airley, our Principal Employment Relations Officer, has been able to devote considerable effort to the work of the Disability Legislation Group which was tasked to frame appropriate proposals and drafting instructions supporting States' resolution 3 of the Strategy.

To approve, in principle, the enactment of legislation under the Prevention of Discrimination (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004 to prevent discrimination against disabled people and carers and provide for equality of opportunity, and direct the Policy Council to revert to the States with detailed proposals for such legislation following consultation with other States Departments, and representatives of the business sector, disabled people and carers, before the end of 2015.

Some of this work is still in hand at the time of writing; however I understand that the work in relation to employment protection is largely complete and could, with States approval, be brought to fruition in a relatively short period of time.

Marketing & Tourism aims to get greater engagement with disability issues, working closely with industry to encourage a positive attitude to access for all. This is reflected in Strategic Aim 3 of the Guernsey Tourism Strategic Plan "... *Deliver An Exceptional Visitor Experience.*" There is a specific action plan in the Strategy which aims long term at ensuring Guernsey can be accurately portrayed as an Accessibility friendly island.

As the key to the delivery of the strategic aim is to change attitude across the tourism sector, the Department is focussing on two areas where this can be influenced, namely, accommodation and attractions accreditation. A requirement has been introduced for these types of businesses to develop and publish "access statements" that will allow potential customers with disabilities to make informed decisions about their holiday choices. We are now working with individual sites to progress this and greater prominence is being given to the ease of access to this type of information, especially via the new VisitGuernsey website. The Chamber of Commerce Tourism and Hospitality Sub Group has been encouraged to get their members to publish clear accessibility information on line.

Department staff work closely with our contracted Quality Assessors Quality in Tourism, who have built up considerable expertise in this area in England over a number of years, and are more than willing to share best practice and practical examples of solutions with individual businesses. Business operators are able to apply for full National Accessible Accreditation as part of their annual quality assessment inspection. Workshops for operators have been delivered in conjunction with the last Tourism Seminar, and more may be facilitated in the future.

The Department continues to work with both the Disability Alliance and Disabled Go Guernsey to promote the importance of providing adequate information for all, through the development of a digital accessibility guide for the Island. However, progress is restricted by the absence of any dedicated resource. Also, the Department was pleased to invite representatives of the Guernsey Disability Alliance to its annual update and briefing earlier this year, not only to keep them up to date but also to provide opportunities for them to discuss these matters with hoteliers.

As a final point the Department is working with industry colleagues on the other islands of the Bailiwick to provide support and encouragement for similar awareness in those locations.

More widely, but less directly, the Department is pursuing policies which support the aim set out in the Strategy to broaden inclusion in the workplace, which is part of the theme of bringing about "... full and effective participation and inclusion in society." The specific Commerce and Employment work areas relevant here are those seeking to develop new economic opportunities such as the digital sector, and the work in hand on skills, particularly the skills gap analysis.

I hope the above information is of use to you in reviewing progress in response to resolution 11 of the Disability and Inclusion Strategy.

Deputy K A Stewart, Minister

Culture and Leisure Department

Thank you for your letter dated 9 June.

I am pleased to confirm that the Culture and leisure Department has maintained a close awareness of disability and inclusion issues following the States Resolution committing to a new strategy.

Whilst there has not been any capital works or alterations to properties that have necessitated reasonable adjustment since November 2013, the Department has been aware of the related policy initiatives that had been progressing for some time in the lead up to the States decision. Arising from that, the Department had previously taken steps to improve disabled access to some of its properties as and when opportunities have presented themselves. We had also introduced a 'carers go free' policy for access

to shows and events that we directly promoted (which is similar to the situation in the UK, so as to ensure that disabled persons requiring a carer are not discriminated against by effectively having to pay double).

In terms of ongoing commitment, I can advise that one member of staff within Beau Sejour, who has a good knowledge of disability and inclusion issues, has been allocated specific responsibility for such matters to ensure that there is a prominent contact point for the public to raise any matters of concern. You may also be aware that Beau Sejour maintains nine disabled parking bays outside its main entrance. Policing of these spaces is undertaken regularly by the Duty Managers to ensure that easier access for disabled persons is maintained at all times with fixed penalty notices being issued to non-disabled persons abusing the facilities.

As to policy initiatives, you may recall that when presenting its 2014 States Report in relation to the future allocation of lottery funds, the Department had recommended that any amounts exceeding the operating deficit for Beau Sejour should be allocated to an appropriation account specifically for the purposes of funding special events or enhancements to its properties. In putting this proposal forward the Department was particularly mindful of the States Resolution in relation to disability and inclusion and the fact that many of its properties, such as Castle Cornet, would benefit significantly from improvements to disabled access (as this was not something that could be easily afforded from its existing limited annual capital allocation).

I trust that this provides you with a sufficient overview of the initiatives undertaken by the Culture and Leisure Department although should you require any further details please do not hesitate to contact me.

Deputy M G O'Hara, Minister

Education Department

Thank you for your letter dated 9th June, 2015, requesting details of the Education Department's work on the States Disability and Inclusion Strategy since November 2013.

Even before November 2013, Disability and Inclusion issues have been a significant element of the work of the Education Department and Schools. This work continues. The work of the Education Department in relation to this area is enshrined in The Education (Amendment) (Guernsey) Law 1987. A SEN project successfully led to the provision of settings for learners with exceptional additional needs (Le Murier School, Le Rondin School, the CAS bases). The SEN Code of Practice outlines for mainstream schools the processes and procedures to be followed in identifying and addressing the additional needs of learners. The Learning, Performance and Intervention Services within the Department (Sensory Support Services, Communication and Autism Services and the Educational Psychology Service) provide direct services to learners and their families and provide training for Education Service Staff. The Education

Department has a strong network of liaison links with others engaged in the field. Inclusion is a key strand of the Education Department vision.

Given the wealth of aspects of Education Department work that relate to Disability and Inclusion, we would welcome the opportunity, should we be invited, to make a presentation in person to the DISSG.

The Department provides technical support to the Disability and Inclusion Steering Group. This demonstrates its contribution to a multi-agency approach to implementing the Strategy and to help implement the actions laid out in the timetable.

The Education Department also takes the mental health of its staff seriously and has trialled mindfulness training for staff across the service and also worked collaboratively with Guernsey Mind.

With respect to capital works, we have taken the Strategy into account in particular in instances such as the completion of the Les Beaucamps High School rebuild, works at St. Anne's and Vale Primary and, of course, in the planned development of the La Mare de Carteret Schools.

I trust that this information is helpful and assists with the preparation of the States Report.

Deputy R W Sillars, Minister

Environment Department

In response to your letter of 9th June 2015 I am pleased to advise you of the work that the Environment Department has undertaken in relation to the Disability and Inclusion Strategy since November 2013, the details of which are set out below:

PLANNING DIVISION:

Development Control Section:

Planning applications are determined in accordance with the planning policies set out in the Urban Area Plan and Rural Area Plan which include policies for safe and convenient access for people with mobility problems, as approved by the States.

Examples of applications which have been approved having particular regard to these policy issues are:

St Peter Port

- Quay/Church Square ramped access
- Market Square ramp (Old but example of major change without harm)
- Old States Offices/Tourist Information Centre – current application following pre-application advice
- Barclay's private bank- application refused but alternative suggested
- Constables' Office- major changes accommodated by design.

Forest and St Saviours – ramped accesses approved to Parish buildings.

Houses – there are examples throughout the Island of ramps/graded accesses having been approved.

Planning Fees – there is an exemption from planning fees where development is to provide a means of access or other facilities designed to secure the greater safety, health or comfort of a disabled person - this has been used for e.g. ground floor extension to create new bedroom/wet room; potentially replacement windows where planning permission is required; create parking space/vehicular access; widening pedestrian gate for wheelchair access where application supported by Or/Occupational Health/other medical specialist.

The Development Control section expect new developments *to* demonstrate reasonable access – e.g. flats should have lifts; Vista's at Vazon incorporates access at ground floor and deck levels.

Forward Planning Section:

In preparing and publishing the draft Island Development Plan the Department has engaged with and responded to the Disability Inclusion Strategy.

Disability Inclusion Strategy and the Island Development Plan - The Environment Department has liaised with the Disability Inclusion Strategy steering group and officers as part of the consultation process which informed the policies of the Plan. This helped to form the policies in the Plan.

Following Publication of the draft Island Development Plan a meeting was held with the Guernsey Disability Alliance, including the legislative representative, and also representatives of the Disability Inclusion Strategy Steering Group (Jane Stephens and Arrun Wilkie) when the draft policies of the Plan were discussed. With the agreement of the Group, the Department agreed to add a paragraph to the high level Objectives of the Plan to emphasise the importance of the Strategy (wording below).

"Through the control of development, the Plan has a significant part to play in removing the barriers that prevent some islanders being fully included in island life. In recent years, the States of Guernsey have developed a much greater understanding of the likely impact of an ageing demographic and has passed a

Disability and Inclusion Strategy (November 2013). The Island Development Plan has responded positively to this by seeking to enable a balance to be achieved between conservation and the needs of disabled people, as is demonstrated across the Plan but specifically in paragraph 19.6.3 (Protected Buildings)."

During submission of initial representations to the Planning Inquiry the Guernsey Disability Alliance has been generally supportive of the approach the Plan has taken.

Provisions of the draft IDP

High level support

This is through the Principal Aim of the Plan and Plan Objective 4 which both seek to maintain and support social inclusivity.

Centres policies

General support subject to criteria for new, and extension, alteration and redevelopment of social and community facilities in centres.

General Policies

GP1 – Supports development that takes advantage of opportunities to improve physical access to open and undeveloped land.

GP5 – Protected Buildings - introduces a balance between the economic and social benefits of development with the special interest of a protected building.

GP8 – Design – requires proposals to demonstrate accessibility to and within a building for people of all ages and abilities and with regard to residential development requires development to offer flexible and adaptable accommodation that is able to respond to people's needs over time (lifetime homes). Also annex 1.

GP14- Allows for home-based employment.

GP18 – Public realm and public art – says that development within areas of public realm will be expected to enhance character and functionality of a locality for the public benefit including through improved accessibility for people of all ages and abilities. The GDA has suggested a slight amendment to the wording of the policy to encompass a wider range of disabilities which Environment has agreed to.

GP19 – Community Plans – will allow the possibility of a community plan for an area for improving disabled access or potentially a wider plan by the disabled community.

IP7 – requires appropriate provision of private and communal parking in accordance with the relevant Supplementary Planning Guidance. The Supplementary Planning Guidance requires appropriate levels of disabled parking throughout the Island.

IP9- Highway Safety, Accessibility and capacity

Requires that proposals take into account the access requirements of people of all levels of mobility and health.

Monitoring and Review

Includes monitoring how the Policies and the IDP is performing in relation to States agreed strategies – including the Disability Inclusion Strategy.

Delivery Mechanisms

Development Frameworks and Local Planning Briefs will consider access issues at the beginning of the design and development process- also Annex III.

Building Control Section:

Building Control applications are determined in accordance with the Building Regulations and in particular the approved guidance contained within the Guernsey Technical Standards. Part M of the suite of documents concerns matters in relation to the 'Access and use of buildings' and contains details of all the design features that must be incorporated for a buildings access and use for people with mobility problems, including people with sensory impairment.

Along with all of the Guernsey Technical Standards Part M is kept up to date and in line with the latest guidance in the UK. A revised Part M (2015) has just been received from our UK suppliers and we are in the process of reviewing the changes with a view to advising the Board ahead of making changes locally and releasing a 2015 edition of the relevant Guernsey Technical Standard later this year.

Guidance note - A Building Control guidance note has been produced 'Vertical Circulation in Non-Domestic Buildings'. Based on a UK document, this has been adapted for local use and is currently being used in house to determine local applications and is primarily aimed at ensuring a consistent view across the section. This document has not at this point been published on the Department's website.

Part P – The Department has recently published extensive guidance on the design and construction of 'Roads' (not maintained at the public's expense). Some guidance in relation to the construction of footpaths, particularly at crossing points, has been included in this document.

Building Control Fees – there is an exemption from building control fees where building work is to provide a means of access or other facilities designed to secure the greater safety, health or comfort of a disabled person - **this has** been used for e.g. ground floor extension to create new bedroom/wet room; potentially replacement windows where a building control licence is required; access; widening door openings for wheelchair access, the provision of a level threshold and for a ramp.

The Building Control section expect new developments to meet the requirements of the Regulations in terms of access into and around buildings. Where facilities are

provided within a building it is generally expected that those facilities should be accessible to all building users including employees.

ENVIRONMENTAL SERVICES UNIT:

Within the Environmental Services Unit, the development of the new playground at Saumarez Park took account of the requirement to provide, as far as reasonably practical, an all-inclusive play area.

At Candie Gardens, disabled parking is allowed by arrangement and operated through Museum staff on-site.

Easy access has been provided at some viewpoints, e.g. Jerbourg and Pleinmont.

TRAFFIC AND TRANSPORT SERVICES UNIT:

The Traffic and Transport Services Unit has undertaken specific workstreams incorporated within the 2014 States approved Integrated Transport Strategy, with regard to disabled access as set out below:

- The Department's Active Travel Unit has a database of disabled group members and individuals which it uses for consultations and engagement;
- Printed materials are available on www.gov.gg;
- The Department's Active Travel unit uses social media for communicating positive messages and inviting feedback from the disabled community;
- The Department regularly issues media updates in relation to matters of special interest groups;
- The Department has approved four Accessible Taxi plates in a new category that are tied to the use of an accessible vehicle. A further four plates may be issued if demand suggests there is a need;
- The new Bus Contract was tendered on the basis of methodology statements. One of the statements required for tenderers concerned the methods that would be adopted to meet the needs of disabled people. The tendered method statement is now being implemented;
- The Department has introduced a policy that whenever possible dropped kerbs and blister paving are installed at unofficial crossing points and as part of remedial or new works;
- The Department has developed a new training programme of disability equality training for accessible taxi drivers;
- A programme of improvements at signalised and zebra crossings to ensure that the height of the kerbs adjacent to the crossings have been dropped to make it easier for wheelchair users to use the crossing;
- Blister paving is also installed on approach to either side of zebra crossings to assist anyone with visual Impairment as part of remedial or new works;
- Added additional disabled bays installed where there is a demand;
- A safety review of unofficial crossing points such as at the Town Quay;

- Worked with property developers to install new pedestrian facilities as part of new development projects,
- The Department's Active Travel unit consult and liaise with a Rights and Access Consultant in relation to access matters;
- The Department's Active Travel unit engage regularly with the Guernsey Disability Alliance and the States Disability Officer in relation to positive media opportunities and consultations;
- Using social media for communicating positive messages and inviting feedback from the disabled community.

I trust that this information meets with your requirements.

Deputy Y Burford, Minister

Health and Social Services Department

I write further to your letter of 9th June requesting details of how the Health and Social Services Department (HSSD) has implemented the Disability and Inclusion Strategy and apologise for the delay in response.

I cannot hope to capture all of the work that is being undertaken that may relate to delivery of the Disability and Inclusion Strategy, but I have set out progress on some key work streams that are highlighted as priorities in the Strategy.

Autism Framework

The Department has been working in partnership with Autism Guernsey and the National Autistic Society to develop a Framework for implementation of the Disability and Inclusion Strategy in relation to people with Autism.

The Department has recently agreed a Service Level Agreement with an Autism Specialist for 18 months consultancy to assist us to develop the Framework and has developed the terms of reference for a project lead. By the end of September 2015 we will have a clear timeframe and project plan for implementation, which will cover the development of a life-long care pathway for children and adults.

The Department's intention has been to focus on the Autism framework first and then to use that as a template for initiating frameworks for learning disability and communication difficulties. Work is ongoing to identify a project lead for the learning disability framework and the communication difficulties framework. This work will conclude at the end of September and leads will be appointed.

At the same time initiatives are being implemented to improve support and services with immediate effect rather than wait for the Framework. Some of this work is detailed below.

Disability Accommodation Review

The Department is reviewing its existing accommodation services to ensure that they are fit for purpose and promote choice, inclusion and the wellbeing of adults with learning disabilities.

One of the biggest achievements over the last 2 years has been the resettlement of Learning Disabled service users from traditional long stay residential homes. In 2013 we had 61 service users living in residential care (some inappropriately placed). Today we have 26 service users in residential care and we support 47 service users in their own properties with bespoke packages of care.

Ongoing partnership work with Guernsey MENCAP has ensured that Pedvin Street (5 flats for Adults with a learning disability) will be refurbished by December 2015.

Work is underway in liaison with the Guernsey Housing Association and Create design team, the National Autistic Society and Autism Guernsey to design a purpose built autism specific unit. The unit is due to be completed 2017/ early 2018. The design will consist of eight self-contained flats and will give us the capacity to return six service users from off island placements into appropriate accommodation that supports their needs.

Service Culture Change

Over the last 20 months the adult disability teams have implemented Active Support training across residential services, and evaluated the outcomes. Active Support is a model of support that focuses on *enabling* people to take part in activities and relationships. It focuses on how service users and staff interact and communicate, and the evaluation has demonstrated improved service user engagement and active participation across all services.

Dementia Framework

A Clinical Nurse for Dementia has been identified to lead on the framework development and a timetable and project plan will be completed by the end of 2015.

Capacity Legislation

In accordance with the Resolution of the States of 27th November 2013, HSSD is currently developing capacity legislation. It is intended that this legislation will cover areas such as:

- deciding whether or not a person has capacity to take a decision,
- allowing a person to appoint another person to act on their behalf if they lose capacity to take decisions,

- allowing a person to take legally binding decisions regarding their medical treatment after they have lost capacity, and
- what can be done when a person has lost capacity without appointing another person to take decisions on their behalf or without making legally binding decisions regarding their medical treatment.
- allowing HSSD to authorise significant restrictions to those people who lack capacity and require their liberty to be deprived and to provide appropriate safeguards

An initial round of consultation has taken place, to include service users groups, and a draft Policy Letter is being worked on for anticipated submission to the States of Deliberation in December 2015.

Oberlands Mental Health and Wellbeing Unit

The new Oberlands Mental Health Unit will open in November 2015, and has been specifically designed to promote inclusion and engagement and to reflect the comments of service users about how best to meet their needs. Both the building design and the operating model are based on best practice evidence about positive user experience and improved outcomes for patients. For example the use of open spaces and light as well as wide corridors to enable disabled access as standard throughout. The Service Users group will continue to be fully involved in the management and development of the service provided from the new buildings complex.

Overlap with other Strategies

As you will no doubt be aware, the HSSD also has commitments against other related strategies, in particular the Supported Living and Ageing Well Strategy, the Children and Young People's Plan and the Mental Health and Wellbeing Strategy. Some key projects that would likely also support the Disability and Inclusion Strategy include:

Children and Young People's Plan:

- a clear focus on inclusion as a key principle embedded in the Plan
- improved consultation and initiatives to support ongoing participation of children with disabilities and their parents or carers;
- initiatives seeking to improve equality of access to educational, sporting, cultural and leisure activities

The Plan is still in draft and will be completed by the end of the year for debate by the States in February 2016.

Supported Living and Ageing Well:

- The Department is currently putting together a business case for the transformation of community services to provide a reablement service - taking a more person-centred approach to support people's independence and choice in the services they receive and reducing the need for formal care and support;
- Reviewing and reforming the provision of equipment to better support independent living for those with physical disabilities

Mental Health and Wellbeing Strategy:

- The Department is developing a project plan and timetable for driving forward the Mental Health and Wellbeing Strategy, of which the Oberlands development mentioned above is a key strand.

A key issue that we have is in amalgamating these various strategies into a clear set out of objectives and outcomes for HSSD to implement. The Department is currently developing a comprehensive delivery framework and prioritisation programme for wholesale reform of its services that will accommodate the above strategies and identify the resources that will be required to deliver. As you will be aware, the Department has been systematically reviewing its service provision and has undertaken a comprehensive cost analysis and benchmarking exercise to identify where the key priorities for change are.

Further, I am sure you will appreciate that the Department's staff are predominantly focused on operational delivery, which demands priority due to the high stakes consequences when things go wrong. In each of the above-mentioned projects the Department has managed to commission some dedicated resources to deliver them through creatively working across departments, with the third sector, commissioning independent expertise where necessary, and through HSSD staff taking on additional responsibilities and really going the extra mile. However, progress in doing so has been slow due to the difficulties of allocating finances from already overstretched budgets; the numerous structural and leadership changes that the Department has undergone in recent years; the difficulties in recruitment; and the reliance in most instances on cross-departmental working.

In the past there has been a tendency to take policies or legislative provisions to the States for approval and then it becomes a problem for departments to work out how to implement them without any increase in resources to do so. I note and draw comfort from the offer in your letter that the Steering Group is happy to act as a resource to any Departments in pursuing work in implementation of the Strategy. I would support in future increased cross-departmental working and a coordinated reporting of progress to the relevant political committees and then to the States where relevant. In particular, the Department looks forward to a States-wide coordinated approach to the work to identify a project plan, timetable and resources for meeting the requirements of the new legislation.

Deputy P A Luxon, Minister

Home Department

Thank you for your letter dated 9th June 2015 requesting an update in respect of the Home Department's work in support of the Disability & Inclusion Strategy.

I set out details of the Department's work below and as they relate to Resolution 11 of the 2013 Report (Billet D'Etat XXII).

- a. Contribute to a multi-agency approach to implementing the Strategy where their assistance is required and, in particular, to implement the actions laid out in the timetable;**

The Home Department remains very supportive of all opportunities to work collaboratively in order to achieve positive outcomes for the local community.

- b. Take account of the Strategy when developing strategies, policies, plans, procedures and when making changes to services or capital works;**

In anticipation of the Disability & Inclusion Strategy's development, the Criminal Justice Strategy was designed to feature a specific strategic commitment to "equality of access to justice, including physical access and anti-discriminatory practices." There is an action plan that sits behind this strategic commitment and related to the CJ Strategy's key outcomes. This action plan is the main, though by no means exclusive, interface point for the CJ Strategy and the Disability & Inclusion Strategy. The Head of Policy & Strategy and the Criminal Justice Strategy Coordinator have met with the Disability & Inclusion Strategy Steering Group to invite shared ownership of this action plan and is pleased to acknowledge that this suggestion was favourably received. The Home Department notes, however, that there will be key actions and initiatives that may be considerations for the CJ Strategy in isolation. For example, from an access to justice perspective, individuals for whom English is not their first language will need to be a consideration for the CJ Strategy but not necessarily the Disability & Inclusion Strategy. The Department looks forward to the development and delivery of the CJ Strategy's commitment in conjunction with the Disability & Inclusion Strategy.

- c. Note the requirement to provide for reasonable adjustments under existing budgets, when legislation is introduced."**

The Home Department remains supportive of this requirement.

I should also acknowledge that the Home Department currently has responsibility for delivery of Resolution 8 of the same report, namely "to lead the development

of policies and procedures for safeguarding vulnerable adults in conjunction with other States Departments, reflecting those already in place for children."

Since 2013, the Home Department has sought to administer its own responsibilities under this Resolution by conducting preliminary research into prospective solutions but with it always in mind that key decisions are not Home's to make in isolation in view of the fact that the Health & Social Services Department ("the HSSD") sits on the front line of safeguarding services and is clearly a significant stakeholder within any safeguarding initiative.

At their Business Planning Day on 24th November 2014 Department Members agreed that, in view of the breadth of knowledge and professional expertise within the HSSD, this work-stream could perhaps be best led by the HSSD with the Home Department remaining as a key stakeholder, and also that any research Home conducted whilst appointed lead would be very willingly shared with any prospective new lead in order to put them on a supported footing to move forwards. At the time, the Home Department Board acknowledged that current HSSD Members were new to post following their election on the 29th October 2014, and that the timing may not therefore have been considered opportune for the Home Department to approach the HSSD to ascertain its interest in this proposal.

Acknowledging the positive developments that the HSSD is leading in relation to the safeguarding agenda for children, and also the commitment of resource to the vulnerable adults agenda in the appointment of a new Safeguarding Advisor for Adults, the Home Department remains of the view that lead responsibility for this work may be better placed with the HSSD so that the safeguarding agenda may be seamlessly developed. The Home Department Minister wrote to the HSSD Minister on 22nd May 2015 and it is understood that the HSSD supports this transfer. A Resolution has accordingly be included for debate in the Policy Letter currently being drafted for debate in September.

A staff discussion paper was drafted and shared with the HSSD in respect of how the future of safeguarding vulnerable adults could look. This paper has also been shared and discussed by the Home Department's designated lead officer with the Disability & Inclusion Strategy Steering Group, and comments have also been gratefully received from the Founder and Non-Executive Chair of the Guernsey Disability Alliance. To date a Home Department lead officer has been working closely with the Safeguarding Advisor for the HSSD and also the Director of Environmental Health, by virtue of her lead responsibility for the development of Regulation of Care legislation. This project team continues to scope relevant existing and planned workstreams across the States of Guernsey so that a suitable gaps analysis may be conducted to inform the delivery of the Resolution going forwards. Should the Resolution to transfer lead responsibility to the HSSD be approved, this work will willingly be handed over to the HSSD's designated lead officer to continue.

I trust that the information provided in this letter demonstrates the Home Department's support for the Disability & Inclusion Strategy and its efforts to deliver it.

Deputy F W Quin, Deputy Minister

Housing Department

Thank you for your letter of 9th June 2015 asking for details of the work that the Housing Department has undertaken in relation to the above Strategy.

I am pleased to report that since the Strategy was approved by the States in November 2013 the Department has:

- Opened two extra care housing schemes in St. Martin's and the Vale;
- Changed its social housing eligibility criteria so that more disabled people can access the Department's social rented housing; and
- Revised its allocations policy to 'fast track' applicants with physical and mental disabilities.

To take each in turn:

Extra care housing

At time of writing 26 disabled people, including people with learning disabilities, have moved from Health and Social Services Department accommodation into extra care housing, where they can live more independently. Further are expected as the two schemes expand in 2015 and 2016.

Extra care housing has also been made available to disabled people who were living in the community, either by themselves or with their families.

New eligibility criteria

Now, working age adults with physical disabilities but no dependents are eligible for rented accommodation managed by the Housing Department and the Guernsey Housing Association, as opposed to just the latter.

Revised allocations policy

When they apply for social housing, disabled people living in accommodation which does not meet their needs are now given greater priority than before. In combination with the new rules governing access to Housing Department properties (see above), this has meant that, on average, disabled people are likely to be offered suitable accommodation more quickly than before.

I am happy to provide further details on any of the above.

Deputy D B Jones, Minister

Public Services Department

I am writing in response to your letter of the 9 June 2015, in which you asked for an update on work undertaken by the Public Service Department (PSD) since November 2013 in relation to the Disability and Inclusion Strategy.

By their nature, some of PSD's sites present difficulties for disabled access. However, measures for reasonable adjustment are fully embedded where possible, such as assistance facilities at locations providing transport services such as Guernsey Harbours and Guernsey Airport, and full access to customer service facilities at the head offices of public service providers such as Guernsey Water and States Works.

In addition, Guernsey Airport has been working with Aurigny and the Guernsey Disability Alliance to improve information for passengers pre and post flight and the existing policies and training are in the process of being reviewed with the States Disability Officer.

The new policy will include clear advice for passengers to secure assistance from the car park to the aircraft, with a combined responsibility between ourselves and the airlines being more clearly defined. In addition we anticipate some be-spoke training for staff on disability issues and Aurigny has committed to attend those sessions with its training staff.

We are also looking at whether any future development of the terminal could include bespoke 'changing places' facilities – which would provide assistance for the most disabled passengers with provision of a wet room with hoist and other changing facilities. This would represent a significant investment and external support or funding for fit out may be required.

In addition to physical measures to improve accessibility, billing entities such as Guernsey Water, States Works and Guernsey Harbours accept payments via a number of routes such as direct debit, online or via telephone.

The Department realises that more can be done and has focused on helping to address some of these areas as directed by the States in resolution 11 of the 2013 report. The Department's corporate strategy provides for the 2013 resolutions, and includes a key objective to review the equality of access to PSD's services and infrastructure (including pricing strategies) for the disabled and more vulnerable members of the community. This objective is led by the Department's Finance Business Partner, who has responsibility to ensure that a review is conducted, along with an accessibility survey of PSD properties and establish an action plan of prioritised work to implement reasonable adjustment if necessary.

Alongside this, the Department is developing a number of Key Performance Indicators that focus on progress against the review and audit of equality of access to the Department's services and infrastructure.

As ever, the Department stands ready to assist the Disability and Inclusion Strategy Steering Group as necessary to deliver this important work.

Deputy S J Ogier, Minister

Social Security Department

Thank you for your letter dated 9 June 2015.

In relation to the Disability and Inclusion Strategy Governance Structure and the workstreams to change attitudes and raise awareness, you will be aware that Social Security is taking the lead on supported and mainstream employment. In order to give transparency to the collective activities of all agencies under this workstream, the Department has developed a framework listing the services currently provided and setting out some of the challenges, gaps in provision and future developments. This framework is updated periodically at the request of the Disability and Inclusion Steering Group and the latest version is attached for your information.

With regard to the specific objectives of improving opportunities for disabled people and carers to participate across society and promoting more positive and inclusive attitudes towards disability in the community, Social Security has been involved in numerous workstreams and activities since November 2013. In connection with Resolution 11 of the 2013 report the relevant workstreams and activities are set out in the table below.

<p><i>a) contribute to a multi-agency approach to implementing the Strategy where their assistance is required and, in particular, to implement the actions laid out in the timetable;</i></p>	<ul style="list-style-type: none"> • Officer lead for supported and mainstream employment. • Officer attendance at meetings and workshops in connection with other workstreams, such as Capacity legislation and Safeguarding Vulnerable Adults. • In connection with the disability register, officer attendance at the multi-agency 14+ transition group.
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<p><i>b) take account of the Strategy when developing strategies, policies, plans procedures and when making changes to services or capital works;</i></p>	<ul style="list-style-type: none"> • The Primary Care Mental Health & Wellbeing Service (PCMHWS) established on a permanent basis following completion of a successful 2 year trial period. • Implemented changes to Carer's Allowance which mean that there is no longer any restriction of the level of earnings a carer can receive while getting Carer's Allowance. • Progress to Work project implemented giving effect to 2012 States Resolutions to introduce work incentivisation within the supplementary benefit scheme. Work-focused meetings now carried out with all people of working age, including non-working partners. Officers take account of disability-related matters within the work-focused approach and with regard to setting work rehabilitation plans. • Supporting Occupational Health & Wellbeing (SOHWELL) project implemented. This project has transformed the way in which the Department deals with sickness claims and is focused upon earlier intervention to support people who may need extra help to stay in work or get back to work more quickly. Using the expertise of a Consultant Occupational Health Physician and Accredited Specialist in Occupational medicine, the Department has changed the way incapacity for work is assessed and has also redesigned the medical certificate to support occupational health and workplace adjustments. In support of these changes, the Occupational Health Consultant has delivered bespoke training to local GPs and other healthcare professionals. • Implemented a Third Sector Grant Scheme to encourage voluntary organisations who have clients of
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	<p>working age to develop work rehabilitation initiatives to help people stay in work or return to work more quickly.</p>
<p><i>c) note the requirement to provide for reasonable adjustments under existing budgets, when legislation is introduced.</i></p>	<ul style="list-style-type: none"> • The Department fully subscribes to the concept of reasonable adjustments. The Department has made both temporary and permanent adjustments for staff in the past, and is currently in the process of making adjustments to respond to new issues that have arisen for existing staff. • The Department welcomes the change in legislation and believes that the work it is doing through the SOHWELL project go some way towards supporting other Departments and the private sector.

I hope that the above information and enclosure are helpful, but if you need further information please ask Carol Le Page to liaise with Ed Ashton, Deputy Chief Officer in the first instance.

Deputy A H Langlois, Minister

States' Assembly & Constitution Committee

Please include the changes which will be made to the Reform Law to remove Legal Disability. The Committee will also be making new Rules regarding the presence of candidates and their representatives at elections counts. At present a representative cannot be subject to the Legal Disability. The Committee will also remove that barrier.

The Committee also plans to run "Community Awareness" training for States' Members as part of their induction programme (along the lines of Dignity at Work / diversity training for civil servants) to make them more aware of the need to respect the diverse nature of the Guernsey population.

In terms of the present Union Civile proposals, it is likely that the only obvious effect on the Committee may be a need to amend the wording of any reference to “spouse” or similar in the various Rules applying to the States.

I trust the above is helpful but please do not hesitate to contact me should you require any further information.

A Nicole, Principal Officer

Treasury and Resources Department

Thank you for your letter of 9th June, 2015, in respect of the above. Please accept my apologies for the delay in replying.

There are a number of areas within the Department’s mandate where work is underway that takes account of the Strategy. These include the following:

States Property Services (SPS)

As a matter of course, when undertaking refurbishment works for properties under its direct control, SPS always now considers the opportunities for adaptations to assist disabled people, such as wider door openings, improved visibility of building features for the visually impaired and so forth.

By way of example, the Department currently has planning applications for a disabled ramp for the Guernsey Information Centre and a new disabled accessible toilet at the Portelet kiosk. SPS has also undertaken an upgrade of a number of existing public conveniences for disabled people to ensure that they comply with Part M of the Environment Department’s Guernsey Technical Standards relating to accessibility for disabled people.

In addition, when supporting other Departments with their capital construction projects, SPS will work with them where necessary to ensure that proper consideration has been given to the inclusion of such adaptations within their plans.

Information Technology Unit (ITU)

ITU continues to follow the accessibility standards for websites set by the World Wide Web Consortium (W3C) which provides guidelines and testing to ensure that online content meets the needs of the visually impaired in terms of layout, contrast levels and compatibility with assistive technology, such as screen readers that allow websites to be navigated using a text-to-speech facility. The target is to achieve a minimum of the W3Cs “AA” standard for all online systems and websites provided for the public. Whilst this represents the second-highest tier of accessibility, W3Cs own guidelines state that *“It is not recommended that Level AAA conformance be required as a general policy for entire sites because it is not possible to satisfy all Level AAA success criteria for some content.”*

ITU also seeks to maintain accessibility standards through rigid adherence to the “HTML” standards that govern how webpages are constructed, as this also assists those developing assistive technology.

Income Tax

You will be aware that the Department has embarked on an Income Tax Improvement Programme. As part of this initiative, a Customer Advisory Forum has been established and arrangements have been put in place to ensure that the interests of disabled people are represented through the membership of this body.

The Hub

The customer services counters (cashiers/payments) on level 2 at Sir Charles Frossard House have been redesigned. The counters now incorporate split levels, with the lower one accommodating the needs of wheelchair users. Each counter now also accommodates those requiring hearing loop access.

In addition, the work that has been undertaken recently to refresh the recruitment portal included steps to ensure it works with all devices and browsers (including third party applications users may have installed such as magnifying and speaking pages applications).

Procurement

All tenders for States’ contracts are conducted using standard procurement documentation. A default requirement has been incorporated within this documentation to require bidders to demonstrate compliance with the States’ Disability and Inclusion policies that may be applicable to the project concerned.

In addition, the Department’s standard procurement documentation that is available across a variety of sources, including The Bridge, is being updated in accordance with accessibility guidelines around font type, font size, layout, justification and alignment etc.

I trust that the above is helpful.

Deputy G A St. Pier, Minister

(N.B. The Treasury and Resources Department notes the scope of work still to be undertaken to progress the implementation of the Disability and Inclusion Strategy and supports recommendation iii;

“To direct the Treasury and Resources Department, subject to its approval of appropriate business cases, to transfer to the Policy Council’s Revenue Budget for 2016 and/or 2017 up to £180,000 from the Budget Reserve for the purpose of progressing the Disability and Inclusion Strategy.”

In respect of recommendation iv, although the Treasury and Resources Department supports the Disability and Inclusion Strategy, no commitment can be given to allocate further resources. Any further funding requirements should be met through reallocation of existing resources by reducing or ceasing some current services which are considered to be lower priority.)

The States are asked to decide:-

VII.- Whether, after consideration of the Policy Letter dated 28th September, 2015, of the Policy Council, they are of the opinion:-

1. To note the update on the implementation of the Disability and Inclusion Strategy provided in that Policy Letter.
2. To rescind Resolution 8 on Article IX of 27th November 2013, and to transfer lead responsibility to the Health and Social Services Department for the development, in conjunction with other States’ departments, of policies and procedures for safeguarding vulnerable adults, having regard to those already in place for children.
3. To direct the Treasury and Resources Department, subject to its approval of appropriate business cases, to transfer to the Policy Council’s Revenue Budget for 2016 and/or 2017 up to £180,000 from the Budget Reserve for the purpose of progressing the Disability and Inclusion Strategy.
4. To note that further requests for resources to facilitate delivery of the Disability and Inclusion Strategy will be forthcoming.

**POLICY COUNCIL AND
COMMERCE AND EMPLOYMENT DEPARTMENT**

AMENDMENT OF THE FINANCIAL SERVICES COMMISSION
(BAILIWICK OF GUERNSEY) LAW, 1987

1. Executive Summary

- 1.1 The purpose of this Policy Letter is to recommend changes to The Financial Services Commission (Bailiwick of Guernsey Law), 1987 (“the 1987 Law”), which will amend aspects of governance in relation to the Guernsey Financial Services Commission (“the GFSC”).
- 1.2 The recommendations are being made following a consultation under the title “A Regulatory Framework for the 21st Century”, which was carried out in 2013 and concluded in 2014. The purpose of the consultation was to seek to ensure that the GFSC will be able to continue to maintain the Island’s reputation as a jurisdiction that is regulated in accordance with the highest international standards whilst enabling it to embrace innovation that will allow the ongoing development of the finance sector.
- 1.3 Specifically the Policy Council and Commerce and Employment Department (“the Department”) recommend:
 - new statutory primary and secondary objectives for the GFSC;
 - the removal of the statutory cap on the number of Commissioners, alignment of the term of office of the Chairman with the post-holder’s term of office as a Commissioner, the ability to appoint a Commissioner to replace the Chairman for up to three years should the Chairman step down before the expiry of his or her term of office and an increase in the age of compulsory retirement of Commissioners;
 - that there is provision for the introduction of an appeals mechanism in relation to regulatory decisions of the GFSC; and
 - a statutory requirement for the GFSC to maintain a complaints procedure.

2. Background

- 2.1 The Policy Council is responsible for the policy framework for the regulation of the financial services sector and the Department is responsible for promoting the interests of the financial services sector. Whilst the relationship of the GFSC with the States is therefore through the Policy Council, both the Policy Council and the Department have an interest in the effective regulation of the sector.

- 2.2 This Policy Letter is therefore a joint document from the Policy Council and the Department.
- 2.3 Both the Policy Council and the Department recognise that the financial services sector is a key element of the Guernsey economy and they believe that maintaining a strong and vibrant financial services industry is essential to ensure continued economic prosperity. Furthermore, the Island enjoys the reputation of a well regulated jurisdiction and must maintain that reputation in order to continue to attract good quality business.
- 2.4 The existing legislative governance framework for the GFSC is established by the 1987 Law. Whilst it is acknowledged that this legislation has served the Bailiwick well, in 2013 the Policy Council and the Department considered that there was merit in reviewing the law in order to ensure that, in light of the continuing rapid pace of international developments, the GFSC would be able to:
- continue to maintain the Island's reputation as a jurisdiction that is regulated in accordance with the highest international standards; and
 - embrace innovation and further development of the financial services sector.
- 2.5 Against this background, in 2013, working closely with the Policy Council, the Department led a consultation entitled "A Regulatory Framework for the 21st Century".
- 2.6 In September 2014, the Department published a feedback document that summarised the outcome of the consultation and set out a number of detailed conclusions, which were informed by the consultation responses, on a range of issues.
- 2.7 Some of the conclusions require the amendment of the 1987 Law, and this Policy Letter contains joint recommendations from the Policy Council and the Department for the proposed amendments. It also contains two revisions considered appropriate by the Policy Council and the Department relating to the ability to appoint a Commissioner to replace the Chairman for up to three years should the Chairman step down before the expiry of his or her term of office and an increase in the age of compulsory retirement of Commissioners.

3. Primary Statutory Objectives

- 3.1 One of the most important factors in achieving the right balance of regulation in any economy is ensuring that regulatory objectives strike an appropriate balance between a range of factors, including public policy, economic growth, consumer

protection and financial stability without compromising the reputation of the jurisdiction.

- 3.2 In order to achieve an appropriate balance between the factors mentioned above it is common to provide regulators with primary objectives.
- 3.3 Overarching functions, some of which can be characterised as objectives, are contained in the 1987 Law, but whilst they have served the Island well, there have been significant developments internationally in financial services regulation.
- 3.4 Based on the feedback received from the consultation, the following statutory primary objectives for the GFSC are proposed instead:
- to effectively administer the supervisory legislation which confers functions on the GFSC;
 - to provide appropriate protection to consumers of financial services products;
 - to maintain and support the efficiency, competitiveness and transparency of financial markets located in the Bailiwick and take such steps as the GFSC considers appropriate to support this elsewhere;
 - to combat financial crime and the financing of terrorism in the financial services industry, in co-operation with the other Bailiwick authorities charged with related duties;
 - to reduce, and support the reduction of, prudential risk in the financial services sector and the maintenance of financial stability in the Bailiwick and take such steps as the GFSC considers appropriate to support this elsewhere; and
 - to protect the Bailiwick of Guernsey's reputation as a competitive and well regulated international finance centre, taking account of the policy framework for the regulation of financial services set by the States.
- 3.5 The new primary objectives will, where appropriate, replace the current objectives.
- 3.6 The Policy Council and the Department propose that there should be provision for the States of Guernsey to amend the primary objectives by Ordinance to take account of any relevant changes in circumstances.

- 3.7 For the avoidance of doubt, these proposals only relate to the 1987 Law and they will not replace functions assigned to the GFSC by other legislation, for example specific functions under regulatory, financial crime and commercial legislation.

4. Secondary Objectives

- 4.1 In addition to primary objectives, other jurisdictions set out secondary objectives which regulatory authorities must take into account when carrying out their regulatory functions. These secondary objectives provide guidance to the regulator on how it should go about achieving its primary objectives. They set the “tone” of regulation, are subordinate to the primary objectives and are a secondary, although still important, factor in any regulatory decision making.
- 4.2 It is proposed that the GFSC should be required to have regard to the following secondary matters:
- the economic importance of financial services to the Guernsey economy and the need for its status as a competitive high quality international financial centre to be preserved;
 - the need to maintain confidence in the Bailiwick’s financial services sector;
 - the need to ensure cost effective and proportionate regulation;
 - the need to ensure that it uses its resources in an efficient manner;
 - the need to engage in appropriate consultation with the finance industry and the general public;
 - the need to enable competition and innovation in financial services;
 - the need to achieve good quality outcomes through regulation, rather than simply policing processes, taking proper account of the standards of process required by relevant international regulatory standards;
 - that the primary responsibility for achieving regulatory outcomes rests with the owners and senior managers of financial services businesses, to the extent that this is compatible with the proper and proportionate application of relevant international regulatory standards; and
 - the need to adhere to generally accepted principles of good corporate governance.
- 4.3 The Policy Council and the Department also propose that there should be provision for the States of Guernsey to amend the secondary objectives by Ordinance to take account of any relevant changes in circumstances.

5. Number of Commissioners

- 5.1 At present the law provides for a maximum of 7 Commissioners although it has functioned with 5 or 6 for much of its existence. The States has appointed a range of suitably experienced candidates including both locally resident and off-Island Commissioners. The general policy has been to appoint a majority of on-Island Commissioners.
- 5.2 The current legislation limits the number of Commissioners to a maximum of 7 and the Commissioners are appointed for a three year term. It is also prescriptive in the length of term that can be served by Commissioners. For example, if there is a casual vacancy during the three year term, any person appointed to fill that vacancy can only be appointed for the remainder of the term of the departed Commissioner, rather than being appointed for a full term.
- 5.3 This can result in the States having to fill a casual vacancy and re-appoint that same person a few months later when the remainder of that term expires. This can lead to uncertainty and also uses valuable States time unnecessarily. This occurred in 2011 when the States appointed three new Commissioners in a very short period.
- 5.4 Furthermore, the current restriction on the number of Commissioners prevents the States from appointing “over-lapping” Commissioners. If the terms of office of more than one were to expire in quick succession it is not possible to appoint one or two replacements early so that there can be a transition from the retiring Commissioners to those incoming.
- 5.5 The Policy Council and the Department believe that it would be better from a corporate governance perspective to allow for over-lapping appointments. This would ensure a degree of continuity within the GFSC and also permit the States to better plan future appointments.
- 5.6 Therefore, it is proposed to:
- abolish the statutory maximum number of Commissioners (and, as a matter of policy, to aim for between 7 and 9 Commissioners, with a minimum of 5);
 - allow the term of office (from commencement to termination) of a Commissioner to be specified by the States with a maximum term of 3 years from the date of commencement. This will allow a replacement Commissioner to serve up to 3 years, rather than the current arrangement of filling the unexpired term of a departing Commissioner. This will increase the flexibility of appointments and, over time, allow for more even appointment patterns, enabling better transition between incoming and outgoing Commissioners; and

- increase the statutory maximum age limit for a Commissioner from 72 to 75 to assist succession planning.

6. Term of the Commission Chairman

- 6.1 Currently, the Chairman of the GFSC is reappointed on an annual basis. This process is a legacy arising from the decision by the States to remove the statutory requirement for the President of the then Advisory and Finance Committee to serve as Chairman of the GFSC. It has been the general practice of the States to renew the appointment of the Chairman until such a time as the Chairman offers his or her resignation. In practice, this does not achieve any significant policy objective and uses States resources unnecessarily with the preparation of the Billet d'Etat and States debating time.
- 6.2 It is therefore proposed that the term of the Chairman should be amended to be identical with the term of his or her appointment as a Commissioner. If the Chairman of the GFSC chooses to step down in the middle of the term of office there would be a power for the States to appoint one of the other Commissioners as Chairman for up to three years (which would, potentially, also mean extending that person's term of office as a Commissioner).

7. Decisions and Appeals

- 7.1 The role of Commissioners has encompassed both corporate governance and regulatory decision making. This has placed greater onus on the off-Island Commissioners for regulatory decision making in relation to enforcement matters. More fundamentally, the Commissioners have had to resolve the issues arising from the importance of ensuring appropriate corporate governance in relation to their own regulatory decisions.
- 7.2 Since the consultation, the GFSC has appointed a panel of Queen's Counsel to whom decisions on enforcement cases are delegated. This step does not remove the Commissioners' responsibilities for the decisions which are taken, but was taken in order to allow the Commissioners to focus on corporate governance.
- 7.3 The Policy Council and the Department will keep the need for a formal, statutory, regulatory decisions appeal mechanism under review. It is therefore proposed that the 1987 Law be amended to include an enabling power to introduce an appropriate mechanism by Ordinance at a later date if that is considered necessary.

8. Resolving Complaints

- 8.1 Where a matter does not relate to a regulatory decision, but instead is a complaint about other types of conduct by the GSFC, there is no statutory mechanism to deal with complaints made against the GFSC. For example, if a licensee believes that it has been dealt with in an unprofessional manner, there is no statutory right to have that complaint independently investigated.
- 8.2 The GFSC has a policy and procedure in place for dealing with complaints. This process currently provides that:
- a complaint must be made in writing to the Director-General, or if the complaint is about the Director-General, to the Chairman;
 - the Director-General will appoint a senior member of the GFSC's staff who is independent from the matter under complaint to investigate and report on the complaint;
 - after the investigation has been completed, the Director-General (or senior staff member) will write to the complainant advising on the outcome; and
 - if the complainant is dissatisfied, the matter will be referred to the Chairman, who will undertake a further review.
- 8.3 For the purposes of transparency, the Policy Council and the Department propose that there should be a statutory obligation for the GFSC to make and publish arrangements for the investigation of complaints and for it to consult the Policy Council in doing so. It should be a statutory requirement that the scheme is designed so that, as far as is reasonably practicable, complaints are investigated quickly and in a cost effective manner and that there should be provision for investigation by an external independent person where a complaint has not been resolved to the satisfaction of the complainant.
- 8.4 Such a scheme should also allow for the summary dismissal of vexatious, malicious or unfounded complaints and allow for the possibility of recovering costs from such complaints.

9. Consultation

- 9.1 The consultation led by the Department in 2013 was addressed to relevant organisations and was open to the public. The Department received a significant number of contributions amounting to many hundreds of pages of written material and held meetings with numerous industry representatives and the GFSC. This Policy Letter takes full account of this feedback.

9.2 The authorities in Alderney and Sark have been consulted and they have raised no objections to the proposals in this Policy Letter.

9.3 The Law Officers were consulted on the proposals contained in the consultation response document and have also been consulted on this Policy Letter.

10. Resources

10.1 There are no additional financial or staff resource implications for the States associated with the proposals and recommendations set out in this Policy Letter.

11. Recommendations

11.1 The Policy Council and the Department recommend the States to agree:

- (i) that the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 should be amended in order to:
 - (a) introduce new statutory primary objectives for the GFSC as outlined in paragraph 3.4;
 - (b) introduce new secondary matters to which the GFSC must have regard as outlined in paragraph 4.2;
 - (c) introduce the measures outlined in paragraphs 5.6 including removing the statutory cap on the number of Commissioners, amending their terms of office and increasing the compulsory retirement age of Commissioners;
 - (d) align the Chairman's term of office with that of his or her tenure as a Commissioner and introduce the ability to appoint a Commissioner to replace the Chairman for up to three years should the Chairman step down before the expiry of his or her term of office as outlined in paragraph 6.2;
 - (e) introduce an enabling power to allow for the introduction of a regulatory decisions appeal mechanism by Ordinance at a later date as necessary as outlined in paragraph 7.3; and
 - (f) introduce a statutory requirement for the GSFC to maintain a complaints procedure as set out in section 8; and
- (ii) to direct the preparation of such legislation that may be necessary so as to give effect to the above decisions, and of any necessary consequential, supplementary and transitional provisions not specified above, including, but not limited to, amendments to other legislation.

J P Le Tocq
Chief Minister

K A Stewart
Minister
Commerce and Employment Department

24th August 2015

Policy Council

A H Langlois
Deputy Chief Minister

R W Sillars
P A Luxon
G St Pier

Y Burford
D B Jones
S J Ogier

K A Stewart
M G O'Hara
P L Gillson

Commerce and Employment Department

A H Brouard
Deputy Minister

D de G De Lisle

L S Trott

G M Collins

Advocate T M Carey
Non-States Member

(N.B. As there are no resource implications in this report, the Treasury and Resources Department has no comments to make.)

The States are asked to decide:-

VIII.- Whether, after consideration of the Policy Letter dated 24th August, 2015, of the Policy Council and Commerce and Employment Department, they are of the opinion:-

1. That the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 be amended in order to:
 - (a) introduce new statutory primary objectives for the Guernsey Financial Services Commission as outlined in paragraph 3.4 of that Policy Letter;
 - (b) introduce new secondary matters to which the Guernsey Financial Services Commission must have regard as outlined in paragraph 4.2 of that Policy Letter;
 - (c) introduce the measures outlined in paragraphs 5.6 of that Policy Letter including removing the statutory cap on the number of Commissioners, amending their terms of office and increasing the compulsory retirement age of Commissioners;
 - (d) align the Chairman's term of office with that of his or her tenure as a Commissioner and introduce the ability to appoint a Commissioner to replace the Chairman for up to three years should the Chairman step down before the expiry of his or her term of office as outlined in paragraph 6.2 of that Policy Letter;
 - (e) introduce an enabling power to allow for the introduction of a regulatory decisions appeal mechanism by Ordinance at a later date as necessary as outlined in paragraph 7.3 of that Policy Letter; and
 - (f) introduce a statutory requirement for the Guernsey Services Financial Services Commission to maintain a complaints procedure as set out in section 8 of that Policy Letter.
2. To direct the preparation of such legislation as may be necessary so as to give effect to the above decisions, and of any necessary consequential, supplementary and transitional provisions not specified above, including, but not limited to, amendments to other legislation.

**EDUCATION DEPARTMENT
AND TREASURY AND RESOURCES DEPARTMENT**

TRANSFORMING EARLY YEARS EDUCATION – FUNDING OPTIONS FOR
THE INTRODUCTION OF A UNIVERSAL ENTITLEMENT TO PRE-SCHOOL
EDUCATION

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

7th September 2015

Dear Sir

1. **Executive Summary**

- 1.1 In May 2014 the States of Deliberation accepted, in principle, the Education Department’s arguments for the introduction of a universal entitlement to pre-school education¹. The Assembly considered the considerable international evidence which demonstrates the high value of this investment in social policy by government in terms of economic, educational and social returns. The 2014 Policy Letter highlighted that in addition to the enhanced economic opportunities which result, there are also many social benefits to be gained from “a prevention being better than cure approach”; better not just for the States but for the individual and the community as a whole.
- 1.2 The Treasury and Resources Department did not support the original Education Department proposals concerning a universal entitlement to pre-school education and all voted against the 2014 propositions. The position of the Members of the Treasury and Resources Department in that regard has not changed.
- 1.3 Following that debate the States of Deliberation resolved, inter alia, to “direct that by no later than September 2015 the Education Department and the Treasury and Resources Department shall jointly lay before the States a report advising of one or more viable options for funding universal pre-school education.” This Policy Letter fulfils this Resolution and considers a number of potential funding sources to enable the introduction of a universal entitlement to pre-school education from September 2016.

¹ 2014 May 28th Billet X, 2014 “The Introduction of a Universal Entitlement to Pre-School Education”

1.4 The two Departments created a Working Group which developed agreed proposals for recommendation to the two Boards. Having considered the Working Group's proposals, the Treasury and Resources Department was unable to agree the preferred option. The position of the two Departments can be summarised as:

- The Education Department's preferred option recommends a blended funding model from reallocation of Education Department resources, a reallocation from Family Allowance and short term funding from the Transformation and Transition Fund.
- The Treasury and Resources Department is of the view that, if a new service of a universal entitlement to pre-school education is introduced and the Education Department is unable to reprioritise its existing budget to fund it in its entirety, then, in order to comply with the States' fiscal policy, the States would need to fund it through a reduction of anything up to 0.75% in all Department and Committee budgets (to meet the balance which the Education Department cannot fund).

2. **Background**

2.1 At the May 2014 meeting of the States of Deliberation the Assembly resolved to:

1. agree in principle to the introduction of a universal entitlement of quality pre-school provision of 15 hours per week for the equivalent of 38 weeks a year for all 3-4 year olds, delivered through a partnership approach with the private and voluntary sectors with effect from September 2016; and
2. direct that by no later than September 2015 the Education Department and the Treasury and Resources Department shall jointly lay before the States a report advising of one or more viable options for funding universal pre-school education.

2.2 The States have, therefore, indicated a willingness and commitment to introduce these proposals, based on one or more viable options for funding pre-school education being presented to the Assembly.

2.3 The Education Department has since been working on three inter-related work streams in order to allow a universal entitlement to pre-school education to be introduced from September 2016.

2.4 These three work-streams are:

1. to secure funding for the entitlement with Treasury and Resources;
2. to ensure sufficient places for all children requiring provision; and

3. to write and implement a quality standards framework which will incorporate existing Health and Social Services Department (HSSD) regulatory standards.
- 2.5 The main focus of this Policy Letter is to report on the options available for funding universal entitlement to pre-school education, but both other work-streams have also been progressed.
- 2.6 In the preparation of this Policy Letter there has been a series of meetings between the Treasury and Resources and Education Departments at both political and officer level.
- 2.7 Alongside this, work has continued on the regulatory and quality assurance aspects of pre-school provision with successful joint working between the Education Department and the Health and Social Services Department (“HSSD”). In terms of ensuring that there are sufficient places for all children requiring provision of pre-school education, the Education Department, working with pre-school owners and managers through the Guernsey Pre-School Learning Alliance (“GPLA”) has received assurances that projected children numbers can be met through existing providers and, if necessary, through increased private and States provision.
- 2.8 The Education Department has obtained most recent statistics from the HSSD and the Social Security Department. A more accurate picture of the places available will be secured in September 2015 when the children who will access the free places will be starting pre-schools.
- 2.9 In developing and implementing a quality standards framework an outside agency has delivered three separate days of training for pre-school leaders and nursery managers in self-evaluation of quality in settings during the 2015 Summer term using the Early Childhood Environment Rating Scale (“ECERS”).
- 2.10 A meeting for all pre-school managers and nursery owners was held by the Education Department and HSSD to explain the present position, introduce the ECERS scales and update the new draft law proposals. The Education Department has established a Guernsey Early Years Partnership to bring together professionals, other agencies and stakeholders to work closely on early years and childcare issues. The group consists of representatives from the Education Department, the GPLA, HSSD and other representatives co-opted as necessary.
- 2.11 As yet, and pending a decision by the States on funding for the scheme, the detailed operational mechanisms have not been finalised and discussions are ongoing with the GPLA.

3. **Funding Requirements**

3.1 The introduction of the universal entitlement to pre-school education is intended, in accordance with the May 2014 States Resolution, to come into effect from September 2016, subject to funding being identified. This would cover the last four months of the 2016 calendar year with full annual costs incurred from 2017.

3.2 The States Report considered by the States in May 2014 stated:

It is currently estimated that this scheme would require an annual commitment of approximately £1.9 million. This estimate was derived from the number of children entitled to receive pre-school education in a cohort and the average hourly rate for pre-school provision in the Bailiwick. It also includes the costs for funding the quality assurance scheme.

3.3 The current estimates for the budgetary requirements are £808,000 in 2016 (which includes initial set up costs) and up to £2.21 million per annum thereafter, at current prices. These revised forecasts are still based on the prudent assumption that all children eligible for the universal entitlement will take up the offer. In the event that there is some opting out from the scheme by parents then costs will be lower. The estimated costs have risen by £300,000, or 16%, since the 2014 report (based on the same assumptions) which is due to more accurate numbers now being available. The Education Department considers that this is a prudent maximum forecast assuming the provision of pre-school to all eligible children.

3.4 The Education Department has been working successfully in partnership with HSSD with respect to Early Years and developing the regulatory standards. This has proven to be a successful example of joint working between Departments.

4. **Funding Options**

4.1 Through discussions between the Education and Treasury and Resources Departments a number of possible funding options were identified and considered. These options included:

1. increasing the Education Department's budget through an overall increase in States Revenue Expenditure ("Increase in States General Revenue Expenditure");
2. increasing the Education Department's budget through reallocation of current States Revenue Expenditure ("Reallocation of financial resources from all Departments and Committees");
3. funding through reprioritisation of the Education Department's existing budget ("Education Department reprioritising"); and
4. combining some of the options above to give a hybrid solution.

- 4.2 Each of the options identified by the two Departments together with derivatives that flow from consideration of these options is assessed in turn below.

Option 1: Increase in States General Revenue Expenditure

- 4.3 The first option considered would be that the funding could be met through an increase in States General Revenue Expenditure and a corresponding increase in the Education Department's annual cash limit.
- 4.4 One of the key fiscal policies of the States over recent years has been "a real terms freeze on aggregate States" revenue expenditure until such time as financial balance is achieved. This objective has been a keystone in successfully maintaining restraint in public sector expenditure over recent years and, in the opinion of the two Departments should not be varied. This option has, therefore, been rejected by both Departments.

Option 2a: Reallocation of Financial Resources from all Departments and Committees

- 4.5 In order to comply with the States' fiscal policy above, funding the entire additional £2.2 million per annum required for Pre-School Education through reallocation would result in a reduction of approximately 0.75% for all Departments and Committees, excluding formula-led expenditure.
- 4.6 The financial pressures on ongoing States expenditure have increased significantly in recent times, particularly in the area of health and social care services following recent reviews. The Working Party is concerned that, while it could be feasible for some Departments to reduce expenditure by 0.75%, the States would be required to consider this funding request for a new service which, in isolation, undoubtedly has merit, but may not be of the highest priority when considered alongside other competing and increasing demands for additional budget.
- 4.7 The Education Department does not support reducing Department/Committee budgets in order to fund universal pre-school education and believes there is a more appropriate option.
- 4.8 The Treasury and Resources Department considers that, should the States still wish to proceed with the introduction of a universal entitlement to pre-school education, that this should be the preferred option should the Education Department be unable to reprioritise its existing budget to meet the cost in its entirety.

- 4.9 The Working Party did consider targeted reductions in other States expenditure, and specifically identified the possibility of funding being made available through reductions in the Family Allowance payments made by the Social Security Department. This has been considered as a separate option below.

Option 2b: Transfer of Family Allowance

- 4.10 At the meeting of the States of Deliberation on 8th April, 2015 the Assembly approved over 40 resolutions arising from a joint Policy Letter from the Treasury and Resources and the Social Security Departments (collectively the “Joint Boards”) entitled “Planning a Sustainable Future – The Personal Tax, Pensions and Benefits Review”².
- 4.11 The Social Security Department provides a number of so-called “universal” benefits. These benefits can be claimed by anyone living in the Islands who is registered with the Social Security Department and fits the other claim criteria. There is no requirement to have paid any Social Insurance contributions and they are not restricted to those on low incomes.
- 4.12 Family Allowance is the most commonly referenced of these universal benefits. This benefit currently costs approximately £10 million per annum and, allowing for the compensatory increase in Supplementary Benefit expenditure, it is estimated that a complete withdrawal of the benefit would release approximately £8 million of annual expenditure for reallocation, once transitional phases are complete.
- 4.13 The Joint Boards stated that effective targeting of expenditure to the areas it is most needed is key to long-term expenditure control. Within the Policy Letter the focus was on the redirection of expenditure away from the provision of universal benefits³ within the Social Security system, such as Family Allowance, towards other priorities within social policy.
- 4.14 In general, the Joint Boards were of the view that the continued provision of non-contributory universal benefits to all, such as Family Allowance, is not sustainable in the long term. The responses from the public consultation also showed that only 20% of respondents would favour the States continuing to pay universal benefits, while 65% would favour some form of reduction in expenditure on universal benefits.
- 4.15 The Joint Boards further stated that “*However valid the reasons for universal benefits at the time of their introduction, it seems unlikely, if the States were considering introducing such benefits today, that they would choose to introduce them in their current form in the present financial climate*”. Based on the evidence available and the public consultation, which showed that there was

² Billet d’État No IV 2nd February 2015

³ Note that the States of Deliberation have approved in the principle a universal entitlement to pre-school education which the Education Department does not regard as being the same as a universal benefit.

public support for reducing expenditure in this area, the Joint Boards recommended the withdrawal of a universal Family Allowance over a period of up to 10 years from 2016 as part of the package of measures proposed. The Joint Boards believed that a redirection of a proportion of these funds to the social welfare system could effectively mitigate the impact of the proposals within their report in respect of those households currently on the margin of the benefit system.

- 4.16 The Education Department considers that a re-direction of a proportion of the current universal Family Allowance expenditure is, therefore, consistent with the Joint Boards' recognition of the desire to fund other social policy priorities. The Education Department believes that the funding of the universal entitlement for pre-school education represents better value for money than simply continuing with the status quo and will help to release the socio-economic benefits that such a public service has demonstrated globally.
- 4.17 The Education Department believes that, together with other measures, a modest reduction of 15% in the current level of benefit would be all that would be required to introduce this. The sums required from the family allowance scheme equate to an approximate 15% reduction in the current child benefit level (from £15.90 per child to £13.50 per child) but still preserve the level of benefit received by supplementary benefit households.
- 4.18 The Treasury and Resources Department considers that should funding be released from this source, there may well be multiple requests to utilise it and that the States should consider all such demands and their relative merits before making any decisions concerning the re-distribution of the resources currently directed to Family Allowance .

Option 3a: Education Department reprioritising expenditure

- 4.19 The Education Department has examined its current expenditure and considered priorities. The Department has little capacity to release additional funding in the short to medium term to fund the entirety of provision of the universal entitlement of pre-school education without significant cuts in services which would have a detrimental impact on educational outcomes. However, the Department has assessed that by reviewing its expenditure it can make a contribution towards the funding of pre-school entitlement increasing to £0.95 million in the medium term and is recommending that this form part of a funding package set out in Option 4 below.
- 4.20 For example, the future funding arrangements for the three colleges (Blanchelande College, Elizabeth College and The Ladies' College) are the subject of a separate consultation by the Education Department and recommendations will be submitted to the States for consideration in March 2016. The Education Department considers it likely that recommendations will be made to change the system of grant funding and reduce the public cost of the

grant-aided colleges, or that alternative funding sources could be found within the Education Department's budget.

4.21 The Treasury and Resources Department considers that the Education Department should seek to fund the universal entitlement through re-prioritising its existing expenditure in the first instance (although recognising that it may not be possible to do so in time for introduction of the scheme in September 2016 as planned), but that should this not be possible, then all other Department and Committee budgets should be adjusted to accommodate the new service.

4.22 In the event that funding is not reprioritised within the Department's annual budget and reallocated to pre-school education then there will be an annual shortfall. In light of this constraining factor which limits the Department's ability to contribute fully towards pre-school education, two further options are possible:

- phasing in the introduction of universal pre-school education, both in terms of the number of hours provided and the age group until such time as further funding becomes available;
- deferring the introduction of the universal entitlement until such time as funding is available.

4.23 These options are considered as Option 3b and 3c below.

Option 3b: Phasing in the introduction of universal pre-school education

4.24 The Assembly agreed in principle to the introduction of a universal entitlement of quality pre-school provision of 15 hours per week for the equivalent of 38 weeks a year for all 3-4 year olds, delivered through a partnership approach with the private and voluntary sectors with effect from September 2016.

4.25 The Education Department is of the opinion that there should not be a phased approach to universal pre-school entitlement but a programme to deliver the full 15 hours as agreed should be implemented in full for the following reasons:

- research, as demonstrated in the original Policy Letter (May 2014)⁴, clearly evidenced (internationally) that 15 hours is the minimum amount of provision required to have a positive impact; indeed England are increasing their offer as are other jurisdictions such as Jersey; and
- implementation and start-up costs of a reduced programme are likely to cost the same amount as the full programme.

⁴ 2014 May 28th Billet X, 2014 "The Introduction of a Universal Entitlement to Pre-School Education"

- 4.26 The Education Department therefore rejects this option on the grounds that it would be far less effective in raising educational outcomes, place us further behind our competitors and would be poor value for money.
- 4.27 The Treasury and Resources Department concurs that, given the structure of the proposed scheme, phasing the introduction to entitlement does not appear feasible.

Option 3c: Deferring the introduction of universal pre-school education

- 4.28 This option simply means that the States Resolution to, in principle, implement the universal entitlement to Pre-School education by September 2016 is deferred until such time as it is affordable to the States of Guernsey. The Education Department does not consider that this option complies with the May 2014 States Resolution. It would mean in effect that the social and economic benefits of this early intervention programme would not be realised as early and further savings to the States from reduced support in the future would be deferred e.g. evidence shows every £1 spent generates savings of between £7 to £18 in the future. This option is, therefore, rejected by the Education Department.
- 4.29 The Treasury and Resources Department notes the preference to introduce the scheme in the timeframes originally agreed by the States. However, the Department does not consider that the scheme should be introduced until such time as funding is in place and would therefore support a deferral until secure funding streams are identified.

Option 4: Hybrid Funding Option

- 4.30 The Education Department is firmly of the view, that this service should not be delayed or brought in piecemeal for the benefit of only some 3-4 year olds. That would defeat the whole object and reasoning behind the scheme. The question, therefore, is how the shortfall in the short-term can be resolved.
- 4.31 One of the suggestions that was raised during the meetings between the two Departments was that the Education Department could make an application to the Transformation and Transition Fund (“TTF”) to address the annual shortfall in the short term for a finite period. The purpose of the TTF is to support initiatives across Government that seek to deliver a change in the way in which services are provided. It is recognised that it should not be considered as an alternative source of funding for routine operational or mandated business.
- 4.32 However, the Education Department considers that the TTF is also recognised as an opportunity to develop and transform service provision in order to bring about sustained and valued change in service delivery and / or enable new services to be created to the benefit of the local community. The introduction of Pre-School is a transformational initiative as it will have benefits in the longer term as evidenced in the original May 2014 Billet d’État:

- improvement in children’s well-being, helping to create a foundation for lifelong learning, making learning outcomes more equitable, reducing poverty and improving social mobility from generation to generation;
- the beneficial effects remain evident throughout Key Stages 1-3 with some pre-school experience compared to none enhancing all-round development in children and relating to better intellectual and social-behavioural development;
- key economic advantages, the strongest of which relates to preventative spend, i.e. effective early intervention can mitigate the need for greater expenditure at a later date;
- supporting parents to return to the labour market.

4.33 The reason for seeking additional funding from the TTF is that without it the Education Department would not be able to fund this initiative from its own budget from September 2016 which is when the States resolved, in principle, to introduce the universal entitlement to pre-school education. The TTF would, therefore, be used to assist with the funding shortfall in the short term.

4.34 The Treasury and Resources Department is of the view that firm decisions on releasing the ongoing funding from the Education Department budget might not be made until after the introduction of pre-school education and the amount requested would be a significant percentage of the total Fund. Therefore, the Treasury and Resources Department is firmly and collectively of the view that funding the introduction of a new service of a universal entitlement to pre-school education would not be appropriate and would not represent the best use of the Fund.

4.35 The Education Department is of the view that a sensible and pragmatic solution, which would enable the completion of the States Resolution from May 2014, combines elements of the various options considered in this Policy Letter.

4.36 The Education Department’s preferred funding solution is shown in the table below.

	2016	2017	2018	2019	2020
	£000	£000	£000	£000	£000
Funding Requirement for Universal Entitlement of Pre-School	808	2,189	2,180	2,210	2,210
Funding Sources					
Education Department	258	525	516	796	946
Transformation & Transition Fund	550	400	400	150	0
Family Allowance	0	1,264	1,264	1,264	1,264

5. Consultation

- 5.1 The two Departments have consulted with the Social Security Department on the contents of this Policy Letter and the proposed use of Family Allowance to contribute to the funding of pre-school education. The Social Security Department's comments on the Policy Letter are included in Appendix 1.
- 5.2 The Law Officers' Chambers have also been consulted in the drafting of this Policy Letter.

6. Recommendation

- 6.1 The Treasury and Resources Department and the Education Department have not been able to reach agreement on the preferred funding option for the provision of the universal entitlement to Pre-School education. The recommendation reflects this outcome.
- 6.2 The Treasury and Resources Department is of the view that, if a new service of a universal entitlement to pre-school education is introduced and the Education Department is unable to reprioritise its existing budget to fund it in its entirety, then, in order to comply with the States' fiscal policy, the States would need to fund it through a reduction of anything up to 0.75% in all Department and Committee budgets (to meet the balance which the Education Department cannot fund).
- 6.3 However, the Education Department recommends the States:
- a) To direct the Social Security Department to reduce Family Allowances by £2.40 per child per week with effect from 1st January 2017;
 - b) To approve the use of the Transformation and Transition Fund to partially fund the introduction of a universal entitlement to pre-school education by the use of: £550k in 2016, £400k in 2017, £400k in 2018 and £150k in 2019;
 - c) To direct the Treasury and Resources Department to include specific allowance of £1.264 million in the Education Department's recommended Cash Limits for 2017 onwards to fund the introduction of a universal entitlement to pre-school education.

Yours faithfully

Education Department

R W Sillars
Minister

R Conder
Deputy Minister

C J Green P A Sherbourne M P J Hadley

Treasury and Resources Department

G A St Pier
Minister

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Deputy R W Sillars
Minister
Education Department
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Our Ref:

Your Ref:

Date: 4 September 2015

Dear

Robert

Transforming Early Years Education – Funding Options for the Introduction of a Universal Entitlement to Pre School Education

Thank you for attending the meeting of the Social Security Department on 1 September 2015, together with the Minister of the Treasury and Resources Department, to discuss the above Policy Letter.

I have to inform you that the Social Security Department does not support the Education Department's proposal to finance part of a universal entitlement to pre-school education through a 15% reduction in the rate of family allowance.

Among the Resolutions of the States concerning the Personal Tax and Benefits Review (Billet d'Etat IV of 2015), which is referred to in the Policy Letter, the States resolved:

'To note that, in the opinion of the Treasury and Resources Department and the Social Security Department, between 2016 and 2025 the payment of a universal Family Allowance under the Family Allowances(Guernsey) Law, 1950, should be phased out through gradual reductions in the amount paid having regard to the increases in personal tax allowances as outlined...'

It is the universal nature of the current family allowances that the Department believes should be phased out. The Department of course recognises that there will be an ongoing need to support low-income families through targeted arrangements such as the supplementary benefit or such successor scheme as emerges from the work of the Social Welfare Benefits Investigation Committee.

The Education Department sees its proposed diversion of funds for universal family allowance into universal entitlement to pre-school education as a strength. The Social Security Department sees it as a weakness, as in beginning to close one form of universal benefit it creates another. The Department does not accept the suggestion of the Education Department that there is a difference between universal entitlements

and universal benefits. If a distinction can be drawn between those terms, it is likely to be so narrow as to be immaterial.

The Department cannot see the case for overlaying a universal entitlement to free pre-school education on a system where the great majority of parents currently appear to be paying without significant problems.

Apart from the issue of universal benefits, the Department also believes that it is generally inadvisable for Departments other than Treasury and Resources Department to take proposals to the States regarding the reallocation of funds which are expected to be released by other Departments.

I am sorry that we are unable to support the Education Department's proposal on this occasion.

Yours sincerely



A H Langlois
Minister

(N.B. The Policy Council is disappointed that, whilst understanding the reasons why, the Education and Treasury and Resources Departments have been unable to reach agreement on a means to fund universal entitlement to pre-school education from September 2016.

While fully supportive of the value of quality assured pre-school education in improving beneficial outcomes for children, the Policy Council appreciates the reservations expressed by the Treasury and Resources Department as to the appropriateness of use of the Transformation and Transition Fund for the purposes proposed by the Education Department. Similarly Policy Council understands why both the Treasury and Resources and Social Security Departments have reservations regarding the redirection of funds currently expended on Family Allowance. In particular, some Policy Council Members considered that the case for using both as funding sources would have been more convincingly made had the introduction of funded pre-school education been a more targeted provision rather than a universal entitlement.

That said, the Policy Council acknowledges, by a majority, that the introduction of pre-school education is ‘a spend to save’ initiative in the spirit of the use of the Transformation and Transition Fund and that children would continue to be the beneficiaries if Family Allowance was used, in part, to fund its introduction.)

The States are asked to decide:-

IX.- Whether, after consideration of the Policy Letter dated 7th September, 2015, of the Education Department and the Treasury and Resources Department, they are of the opinion:-

1. To note paragraphs 6.1 and 6.2 of that Policy Letter.
2. To direct the Social Security Department to reduce Family Allowances by £2.40 per child per week with effect from 1st January 2017.
3. To approve the use of the Transformation and Transition Fund to partially fund the introduction of a universal entitlement to pre-school education by the use of: £550k in 2016, £400k in 2017, £400k in 2018 and £150k in 2019.
4. To direct the Treasury and Resources Department to include specific allowance of £1.264 million in the Education Department’s recommended Cash Limits for 2017 onwards to fund the introduction of a universal entitlement to pre-school education.

HEALTH AND SOCIAL SERVICES DEPARTMENT**ARRANGEMENTS FOR SECONDARY HEALTHCARE FROM 1ST JANUARY 2018**

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

20th September 2015

Dear Sir

EXECUTIVE SUMMARY

1. The Medical Benefits Scheme (including Specialist Medical Benefits), which commenced on 1st January 1996, involves key commercial contracts between the States and various providers of healthcare. This Policy Letter addresses the provision for secondary healthcare after the expiry of the current contract with the Medical Specialist Group (“MSG”), which is one of those contracts.
2. This contract will expire on the 31st December 2017 and notice of the States’ commissioning intentions regarding these services must be given by the States not later than the 31st December 2015. This contract contains a two year notice period starting from the 31st December 2015 to either decommission or expire or re-develop the commissioned service through a contract renewal.
3. This Policy Letter relates to the proposals for the commissioning of secondary healthcare to cover all residents of Guernsey, Alderney, Herm and Jethou from 1st January 2018 in replacement of the existing arrangements with MSG.
4. The proposal is for revised arrangements which will establish a different service led, outcomes focused, flexible and patient centred relationship between the States of Guernsey, acting by and through the Health and Social Services Department (“HSSD”) and the Social Security Department (“SSD”), and the MSG.
5. It is proposed that the current MSG contract be renewed, but on new contract terms to be established with the MSG, as set out in this Policy Letter. The new and redesigned contract will be a rolling five year contract, subject to a right for either party to terminate the revised contractual arrangements with not less than two years’ notice before the expiry date of any five year contract term.

6. The services which MSG will provide under the revised contractual arrangements include, generally, consultations and surgical procedures undertaken at present at the Group's clinics, and in hospitals managed by HSSD in Guernsey and Alderney. The scope of the revised contractual arrangements will exclude the scheduling and administration of theatres and potentially some other aspects of the service delivery, subject to negotiations.
7. It is recognised that there will need to be an on-going need to review the service relationship to ensure that it is delivering value for money and will therefore include a mandatory obligation for HSSD to formally review the arrangements every three years with a fundamental review by no later than 31st December 2025.
8. HSSD, SSD and MSG are the joint signatories to the current contract with MSG. The two States Departments continue to work closely to ensure the successful delivery and administration for the Medical Benefit Scheme. The Departments believe that the Medical Benefits Scheme which underpins the delivery of secondary healthcare has been overall a great benefit to the community and has enabled equality of access to secondary care services at the point of use.
9. Nevertheless, the Departments consider that there is need for improvement in both efficiency and cost control in the current arrangements relating to the provision of secondary health care, which encompasses the MSG service provision.
10. In preparation for the expiry of the contracts the HSSD and SSD have over the last twelve months evaluated the current contractual options and engaged in discussions with the MSG.
11. An analysis and assessment of the services identified a need for key changes to the relationship with MSG and a redesigned contract to support the necessary improvement in cost efficiency, quality and patient experience in some areas. Following a rigorous examination of multiple contractual options, consultation and an extensive consideration of the contract terms including price, performance and quality assurances, the Departments have concluded that a redesigned contract with those significant changes will best address current concerns and provide the best option. This is provided, however, that the form of the contract that includes these changes can be agreed to the satisfaction of the Departments. To that end, an alternative option has also been evaluated and scoped. That alternative option is for HSSD to provide the secondary health care services in house. It is a target to complete the negotiations between the States and MSG by no later than the 30th June 2016. If negotiations are at an advanced stage, and the parties are confident that an agreement can be reached within an acceptable period, but not yet fully finalised, then it is intended to continue with those negotiations for agreement to be reached. If however the parties are unable to reach agreement, HSSD will be in a position to proceed to implement that

alternative option in time for the commencement of the service from 1st January 2018.

12. The recommendation from the Boards of both HSSD and SSD is that the States should enter into revised contractual arrangements with MSG, subject to the right to proceed with the alternative option outlined in Part III in the event that the terms of the new form of contract cannot be agreed. However, if this were to occur and be financed under the existing contractual arrangements, the cost of the contract would increase from around £17.4m per year to around £21.4m per year at 2015 prices.
13. The development of a new service relationship offers a significantly different and much improved structure to those arrangements currently in place. It is believed that the proposal will bring real improvements for many service areas in quality, accessibility, safety and improved value for money. It will improve governance and provide flexibility in working. At the same time, the proposal retains the highly regarded services of the current MSG consultants.
14. Discussions with MSG commenced in 2015, on the understanding by all parties that this was subject to subsequent States endorsement, and are scheduled to continue with the aim of completing by the following target date of 30th June 2016. The negotiations are intended to agree the service partnership relationship changes required in the Princess Elizabeth Hospital and the redesigned contract terms.
15. The key points of the proposed new service arrangements with the MSG will be part of a continuous programme of improvement in the Princess Elizabeth Hospital. The key points are as follows:
 - a) MSG must agree and develop an operational plan in conjunction with the States to illustrate how it will meet the new parameters of the contract successfully. The operational plan will be based around seven fundamental objectives which underpin the redesigned contract for the service:
 - Improve patient experience and clinical outcomes from secondary health care;
 - Reduce the amount of avoidable time people spend in hospital;
 - Effective leadership of, and participation in, multidisciplinary clinical delivery and governance;
 - Flexible clinical delivery models based on the needs of the community;
 - To support a move towards provision of care closest to home;

- Positive engagement in effective commissioning systems and processes, including the provision of all performance indicators for contract monitoring;
 - Improved value for money services, including cost efficiencies and cost reductions wherever possible.
- b) The financial information contained in this Policy Letter for the redesigned MSG contract has been calculated on a per-doctor cost which includes on-call duties, the specialist's earnings, facilities and support staff costs, other overheads and business profit.
- c) It is the intention of HSSD to negotiate a contract price for the MSG's clinical provision following service reviews of each specialist service area. The price will therefore be agreed in the contract as a price for the MSG clinical service and is expected to reduce from the current per-doctor assessed price described in this Policy Letter to reflect changes in the service delivery, the increased efficiencies required from the contract and also the alignment of some of the service aspects into States provision; including the administration of theatre management.
- d) The contract will clarify how HSSD resources will be used to support and manage private practice. MSG will be able to continue and expand its private practice outside the contract with the States subject to it complying with its service obligations in the contract and which will be monitored under the contract governance provisions.
- e) Subject to the States approving the recommendation in this Policy Letter, MSG will be requested to support a financial reporting timetable.

In summary, this Policy Letter sets out proposals for a complete reorganising of the commissioner/provider relationship between HSSD and SSD with the MSG, which will be fit for purpose and offer flexibility for Guernsey's challenging secondary healthcare environment needs into the future.

CONTENTS OF REPORT

This report has 5 parts:

Part I Introduction

The introduction sets out the background to the scheme and the underlying investigations taken by HSSD and SSD to reach the proposed recommendations in this Policy Letter.

Part II Key Benefits from the new form of Contract

This part sets out the explanation of key benefits with the redesigned contract.

Part III Reserve option

This part details the alternative option should negotiations not achieve the acceptable outcomes required by 30th June 2016.

Part IV Financial Arrangements

This part details the proposed arrangements for funding.

Part V Conclusions and recommendations

This part contains the conclusions and recommendations of the HSSD Board and SSD Board for the proposed contracts with MSG.

PART I INTRODUCTION

BACKGROUND TO THE SCHEME AND UNDERLYING INVESTIGATIONS

16. The current Medical Benefits Scheme covers (among other things) secondary or specialist healthcare treatment. Benefits are paid based on the treatment delivered by contracts originally established in 1995 with on-island service providers. The original 7 year contracts were replaced with 15 year contracts effective from 2003. Secondary healthcare services are delivered under a contract with MSG. Provision is also in place for some inpatient treatment in Alderney through a contract with the Island Medical Practice, which is an Alderney General Practice.
17. In 1992, the former Social Security Authority investigated the possibility of an off-island health insurance company providing a comprehensive scheme for hospital charges, general practitioners and specialists, specialist treatment in the United Kingdom for services unavailable in the island, physiotherapy and osteopathy. After a tender process, Norwich Union Healthcare Limited was recommended with a quote of £28.01m for comprehensive cover in 1993.
18. The States rejected the proposal. There was unease relating to a payment of £28m off-Island and it was considered that local providers or the States of Guernsey itself could administer the scheme.

19. In 1995, meetings were held between MSG and States of Guernsey representatives regarding the possibility of a specialist health insurance scheme. These meetings were attended by representatives from the former Social Security Authority and Board of Health.
20. After a prolonged negotiation period, an agreement to provide secondary healthcare was achieved. The contract was to be delivered for a fixed price of £4.73m per annum for 7 years; subject to increases based on the movement in the Retail Prices Index (“RPI”) and a minor adjustment in the event of increases in the Medical Defence Union subscription should they increase above RPI. The contract price remained fixed regardless of any increases in workload.
21. Extensive work had been undertaken to evaluate the cost to deliver the service using States-employed consultants. The financial model suggested that the service could be delivered in-house for £31.935m compared with the MSG offer of £33.110m (over the 7 years) based on the contract at that time. The difference of c. £1.2m represented a 3.5% saving if the service were to be delivered in-house. There were a number of advantages for selecting the MSG contract over the HSSD in-house service:
 - a) MSG costs were agreed at a fixed rate which transferred the risk of an uplift in demand over the contract term away from the States at a time of great uncertainty;
 - b) The MSG contract avoided any upheaval of the doctors who delivered acute specialist services;
 - c) Successful negotiation with MSG meant that there were consultants in place who knew the patients and the GPs.
22. These advantages remain of some relevance today and were considered (with other factors) when formulating the recommendation for future service delivery. It continues to be important for HSSD to work with MSG in delivering services.
23. In late 2001, the MSG contract was reviewed in advance of its expiry on 31st December 2002. The possibility of an in-house delivery model was explored again at that time. The in-house delivery model was forecast to be 3.7% less expensive than the MSG contract. In its report to the States recommending renewal of the Contract, the then Social Security Authority stated¹:

“In view of the relatively narrow gap between the estimated cost of the States employing its own doctors and the proposal for a new contract with the Medical Specialist Group, the Authority and the Board recommend proceeding with the latter. The logistics of implementing a States-employed service should not be underestimated. It is worth noting, also, that the narrow margin between the VFM cost and the Medical Specialist Group price has been reached only after considerable dialogue and negotiation between the parties.”

¹ Billet d'État II, 2002

24. A 15-year contract was entered into for the MSG to provide secondary care on a basis of £231,818 per doctor per annum, capped at 37 doctors for the first 5 years of the contract term. The price increased annually based on RPI data from the previous September. The agreement had review points at five year intervals, in which the scope of services and number of doctors would be reviewed.
25. In May 2011, United Kingdom Consultants Sector delivered for the States of Guernsey Public Accounts Committee a Value for Money Review of Secondary Healthcare in Guernsey. This Policy Letter addresses the issues that were highlighted by that report.
26. The current contract will end in December 2017 and under its terms it is necessary for The States of Guernsey (acting by and through HSSD and SSD) to advise the provider of its future intentions by the end of December 2015.

Programme of Work 2014-2015

27. The review of the contract has been overseen by a Secondary Care Programme Board (Programme Board), which has included both political and senior officer representation. The Secondary Care Programme Board has worked intensively from December 2014 to date to review services and consider all contracting options available on behalf of the States, to improve efficiency, value and improved health outcomes for the community.
28. The Programme Board's immediate focus was to provide for service continuity in the short term after the end of 2017. There was also an imperative to identify and assess what was needed from a consultant provided service as part of a multidisciplinary team, to meet the HSSD's objective to build better healthcare, including a requirement to improve service quality, safety, clinical effectiveness and patient experience. Additionally, the medium to long-term service requirements needed be evaluated to ensure that HSSD adopted the most appropriate and sustainable model for the future and that any solution proposed is consistent with those longer-term service requirements.
29. A key requirement was the need to build flexibility into the service provision to meet the changing health needs of the population and new treatments and working practices to achieve best value for money.
30. The current MSG contract was introduced at a time when both the financial and regulatory context for the delivery of health services was significantly different from the present day. As a result its provisions are no longer suitable to regulate the outcomes and afford the flexibility necessary to ensure efficient and value for money secondary healthcare.
31. This project therefore represents a significant opportunity for the States of Guernsey to achieve a step change in the nature of how the service is delivered for the future. The proposed changes detailed in this Policy Letter therefore

support the wider objective of ensuring Guernsey has the most effective and appropriate secondary health care service in the medium and long term.

32. HSSD and SSD have reviewed existing services and considered all appropriate contracting options available to improve efficiency, value and improved health outcomes for the community it serves.

33. Several options have been assessed and considered in detail:

Option 1 - Do nothing;

Option 2 - Roll over the existing contract with MSG;

Option 3 - Introduce a redesigned contract with MSG;

Option 4 - Direct internal provision by the States of secondary healthcare;

Option 5 - Integrate consultant employment into States employment over the longer term;

Option 6 - Decommission the MSG and commission a new on-island service provider;

Option 7 - Shared jurisdiction of secondary healthcare with (for example) Jersey;

Option 8 - Establish a formal partnership arrangement with an overseas provider (the Joint Venture option).

34. Following the Secondary Care Programme Project Board's analysis of a detailed options appraisal document, support was given to proceed to a more detailed analysis of two of the options which were considered most able to be achieved within the timescales, created least risk and would best secure the project objectives:

Option 3 Introduce a redesigned contract with MSG;

Option 4 Internal provision by the States of secondary healthcare.

Option 8 was considered to be suitable as a viable longer-term solution or as a means of filling gaps in service provision. Preliminary soft market testing had revealed some expressions of interest from potential providers at this time including from a United Kingdom NHS Foundation Trust. However in general this option was not considered to be deliverable within the project timetable.

35. A large body of evidence was identified and collated to enable a detailed analysis of the options. Refer to appendix 1 for the governance of the Secondary Care Programme of work; appendix 2 for the composition of the Clinical Senate;

and appendix 3 to review the advantages and disadvantages of the eight options considered.

36. A commissioning analysis of MSG was undertaken which included due diligence on their history, scope of service provision, performance, financial position and deliverables.
37. An Epidemiology² Report was prepared, the aim of which was to inform the future commissioning of secondary care for the people of Guernsey, by bringing together the available information on the health of the population of Guernsey and comparing this with that of the population of the United Kingdom. The report analysed secondary care activity levels for Guernsey and for a United Kingdom comparator (Surrey Downs), taking into account differences in the disease profile and demography and identified differences between expected and observed demand in Guernsey. The report also explored possible explanations for these differences and developed forecasts of demand for secondary care. The report concluded with recommendations to support improved health intelligence in the future.
38. A Patient Engagement Report was commissioned. The aim of this report was to ascertain patient experiences of care in the PEH and from MSG Consultants.
39. The report drew on a considerable number of sources including the development of an experience based 'co-design' process for ophthalmology and orthopaedics. Focus group work was also undertaken and included the third sector and primary care. The final themes of the report covered seven areas: Complaints; Serious Incident reports; Engagement report; Maternity – summary report; Communications plan; Customer survey - Friends and Family Test; and Experience Base Co-Design.
40. The Programme Board also commissioned service reviews for ophthalmology and renal services. This involved drawing up terms of reference for the service reviews and commissioning independent clinical experts to undertake the reviews to identify where service change is needed to increase efficiency and improve health outcomes for patients.
41. A Clinical Senate Assembly was constituted and met to consider a secondary healthcare model which would meet the specific needs and circumstances of Guernsey and its population. The independent Clinical Senate, the first of its kind in Guernsey, replicated an international evidence way of working. It was composed of a number of health professionals, experts in their field and widely respected. Independent membership included a Medical Director, a Director of Public Health, a Chief Nurse and an Assistant Director of Quality and Safeguarding.³

² Epidemiology is that branch of medicine dealing with the incidence (and transmission) of diseases in populations.

³ The membership of the Clinical Senate is set out in Appendix 2

The Senate's objectives were to:

- a) Give advice and recommendations on the advantages and risks of proposed clinical options for secondary healthcare provision and opportunities for evidence based innovation
 - b) Provide a recommendation on the best delivery structure and model of clinical care for Secondary Care Health Services in Guernsey – short term
 - c) Provide a recommendation on the best delivery structure and model of clinical care for Secondary Care Health Services in Guernsey – long term
 - d) Advise on clinical models for the provision of specific secondary and tertiary healthcare for the people of Guernsey
42. Following careful consideration of this information, both the Clinical Senate and the Programme Board concluded that Option 3, a redesigned contract with MSG, was the best Option at this time, subject to the redesigned contract being in a form that would deliver on the seven principal objectives (see paragraph 15a). Option 4, the direct provision of secondary healthcare was seen as a viable option which in some respects gave more advantages than Option 3 but that on balance, and provided that an acceptable form of contract could be agreed, at this time was to lesser preference.
43. The Programme Board's conclusions and recommendation were subsequently approved by the HSSD and SSD Boards. The recommendation was for an entirely redesigned contract to be established with the MSG; a five year rolling contract with a two year break clause. This means that the minimum term of the redesigned contract will be five years. HSSD and SSD each support this recommendation only on the basis that an entirely new and different type of contract and way of working is established. This must be a contract that focuses on patient needs and establishes a service partnership in delivery.
44. If the negotiations are not successful (either because agreement cannot be reached in relation to the key elements of the redesigned contract which the Departments consider are essential to deliver the necessary flexibility, efficiencies and value for money or if the negotiations have not been able to be agreed within the appropriate timeframe), HSSD and SSD will consider the necessity to move to an alternative option for the delivery of secondary healthcare. This would be Option 4 and provides for HSSD to supply doctors directly through internal resources and in alignment to the rest of secondary healthcare provision. The necessary preliminary investigatory work and business case including financial projections have been undertaken and makes this option feasible if required for commencement by 1st January 2018. This is particularly so since the work on the specification of the service delivery is identical whether it is supplied by MSG or through an internal resource and there is a greater ability for HSSD to supplement specific services through the use of external

specialist providers. If this option were to be undertaken it would result in the integration of secondary care services with those at the Princess Elizabeth Hospital to form one organisation.

PART II KEY BENEFITS OF A REDESIGNED CONTRACT

45. The HSSD and SSD have identified that adjustments are required in the delivery of services, and that these changes will need to be reflected in the redesigned contract with MSG. Clinical outcomes and patient experience will be a key theme within the contract.
46. Patient satisfaction is measured through the MSG's customer feedback scheme, which enables patients to provide comments, both positive and negative, on the service they have received. In 2014, the number of complaints recorded was 92, a 56% increase from 2013. This has to be placed in the context of 67,000 consultations in 2014, and not all of those complaints may be directly attributable to MSG but could have arisen, for example, due to equipment failure and similar causes.
47. It is important that customer feedback is used to identify issues for improvement, which can then be addressed in the redesigned contract. To support effective complaint management and enhancement of patient safety, any redesigned contract needs to continue to develop improvements in governance capability and move from a joint governance framework to a single governance framework. This change will enhance the effective reporting and management of incidents and complaints within the same system and build on the significant improvements already made in 2015.
48. Additionally HSSD propose that at some point during the term of the redesigned contract a scheme similar to that in the United Kingdom called Healthwatch is introduced to allow the general public to make a meaningful contribution to health policy and monitoring of quality. It is envisaged that this might be an initiative that is promoted by the voluntary or charitable sector.
49. From the work undertaken in analysing the options a number of recurrent themes emerged which will need to be addressed as part of the contract provisions:
 - Continuation and implementation of service reviews to support long term planning and improvement of health and social care.
 - Scheduling of operating theatres in-house to optimise available theatre time and productivity.
 - Endorsing the development of a five-year strategic plan, with due consideration to prevention, early intervention and reduction of inequalities.
 - Enabling change to be agreed and quickly introduced during the contract period.
 - Introducing a single governance system, to include all organisations involved with the delivery of healthcare.

- Endorsement of the principle that the new service should exceed, or be equivalent to, the quality and performance of the highest international standards.
 - Direct service reviews to provide opportunities for improvements in self-management and enablement of patients.
 - Requirement of MSG to actively support the continuous improvement of data production, analysis and intelligence capability across all elements of care.
 - Promote greater integration of working across sectors, including with the third sector and ensures the prevention agenda is not overlooked.
 - Capitalise on the integrated health and social care system.
50. In 2015, HSSD and Treasury and Resources jointly commissioned a piece of work from Consultants BDO to cost benchmark and prioritise health services. The aim of the project was to identify opportunities for improved value in service provision.
51. The project identified a requirement for HSSD to undertake a programme of transformation to realise efficiencies from between £5m and £25m and improve the value of services, including secondary care services. Accordingly, the contract will need to include provisions to address these issues, which included matters such as:
- i. Increasing the number of day case procedures;
 - ii. Increasing the utilisation of theatres;
 - iii. Improving patient discharge practices;
 - iv. Reducing the length of stay in hospital;
 - v. Addressing those areas where there appeared to be higher costs compared to off-Island providers;
 - vi. Increase the quality monitoring and reporting on health outcomes.
52. Clinical professional recommendations have also been sought which propose changes to the scope of the MSG service provision under the redesigned contract. These include improvement in the quality of certain treatments, increased medical cover for the in-patient hospital population to address an identified risk in patient safety.
53. Subject to agreement with MSG, the provision and scheduling of outpatient facilities is an area that could be moved from the scope of the redesigned MSG contract and aligned to the Princess Elizabeth hospital to improve efficiency and enhance patient safety.
54. The effective scheduling and administration of theatre lists is identified as fundamental to the effective running of surgical and interventional services. It is proposed that the contractual arrangements should not separate this activity from the HSSD management of the remainder of the hospital facility.

55. Examples of multi-disciplinary working already exist in the hospital. Effective modern healthcare is delivered best by multi-disciplinary teams, with increasing emphasis on the role of advanced practitioners, consultant nurses and therapists and non-medical specialists. The Clinical Senate recommendations are that the future contractual model for doctors employed is subordinate to the design and management of a multi-disciplinary clinical workforce to meet the current and future needs of the people of Guernsey (See also paragraph 62 and following). Increased multi-disciplinary working will be a requirement of the HSSD partnership with MSG in the hospital.
56. The patient engagement exercise, Clinical Senate, BDO project and clinical professional recommendations all support change within the secondary services in order to meet the needs of patients and the wider community of the Bailiwick and which must be reflected in any redesigned contract with MSG. In the early provisional discussions with MSG, they recognise and acknowledge that if they are to continue to be the secondary healthcare provider that the service relationship will need to be different, focused on outcomes, flexibility and measured performance for the joint delivery with HSSD to the residents of Guernsey of good quality secondary healthcare.

Achievement of improved health outcomes for patients in a redesigned contract model

57. The capture of good quality data has a direct relevance to evaluating good practice and benefits.
58. The current contract does not require MSG to provide evidence of the quality of services, as only one key performance indicator (“KPI”) currently exists, being that of the maximum waiting times. The redesigned contract must therefore include KPIs that are linked to measurable outcomes to ensure that MSG delivers improvements in the quality, clinical outcomes for patients and patient experience.
59. The HSSD Board propose to achieve this by embedding a range of measurable KPI and contract objectives into the redesigned contract.
60. Prior to contract agreement, the MSG will be required to work with HSSD to engage in the development of an operational plan with HSSD to illustrate how service delivery can be configured to support delivery of these KPI and contract objectives.

Governance

61. HSSD and MSG currently manage a serious incident (SI) relating to patients through their own separate but aligning systems. This raises the risk of poor patient outcomes, poor communication and a failure to learn lessons for the future. MSG will be commissioned through the redesigned contract to engage in the further development of, and adherence to an improved governance

framework. The current governance system in operation has been much improved by all stakeholders involved in governance systems, including the MSG. However, the new MSG contract and working practices in the hospital will include the transition from a “joint” governance arrangement to a single governance model.

62. The contract will therefore address this by including the outcomes from discussions that are already taking place between HSSD and MSG so as to ensure robust good governance practice, including:
 - 62.1 Meeting best practice for information governance;
 - 62.2 Operating within a single governance framework, which is integrated between all on-Island providers and the States of Guernsey;
 - 62.3 Attending meetings and driving the required changes in governance in a proactive way;
 - 62.4 Acting responsibly and having clinical accountability demonstrable through processes, systems and evidence being put in place;
 - 62.5 Actively participating in audits and service reviews to provide medical leadership and accountability;
 - 62.6 Adopting a code of conduct that supports open and transparent dialogue with patients, communities, the HSSD and SSD where safety issues are identified;
 - 62.7 Leading Serious Incident Reviews;
 - 62.8 Contractual and fiscal governance.

Multi-disciplinary Team working

63. Multi-disciplinary clinical directorates are currently in development within the Princess Elizabeth Hospital to drive improvement in quality and improved clinical outcomes. MSG doctors will be required to continue to support and develop the use of multi-disciplinary team staffing and working arrangements.
64. Within multi-disciplinary clinical directorates it will be essential for MSG to provide medical leadership and collaborate on the development of care pathways that best reflect the needs of the patient. The clinical pathways of care will encompass the whole of the patient journey and steps they take in their treatment, from first appointment to supporting reablement and self-care in the community.
65. Doctors will be responsible for sharing and disclosing information concerning the management of patients, providing medical leadership for the patient’s course of treatment right through to the end of the discharge.
66. MSG will also be required to actively support the increased integration between Health and Social Care services.

Future Services covered by MSG

67. The services currently provided by MSG are in the specialities of:

Anaesthesia (including pain management and intensive care but excluding dentistry, other than oral surgery)
Medicine (including chemotherapy)
Obstetrics and Gynaecology
Neonatal and paediatrics
Surgery (including orthopaedics, urology, ENT, vascular, general surgery, breast)
External to the current contract, bowel screening
Ophthalmology
Renal
Acute and elective medical services including: Geriatrics; Cardiology; oncology; gastroenterology; respiratory; diabetes; endocrinology; nephrology; stroke

68. In 2014, over 8,000 procedures were carried out in the operating theatres at the Hospital. The BDO report highlighted that in contrast to peer groups, patient hours in theatre as a percentage of scheduled theatre hours were under-utilised in each of the hospital's four theatres. This illustrated a need and opportunity to capitalise fully on the use of theatres. Theatre efficiency could be improved by increasing the number of day case surgeries which enable more patients to recuperate in their own homes and avoid unnecessary or prolonged hospital admissions if they contract a hospital-acquired infection.
69. Moving theatre assistants into the Hospital should support increased collaborative working with the HSSD Medical Director regarding the more efficient utilisation of theatres.

Outpatient services

70. Outpatient services are provided largely from premises leased by the MSG at Alexander House and Mill House. In 2014, MSG doctors held over 53,000 consultations with patients in outpatient clinics and over 14,000 inpatients' consultations.

71. It is proposed that consideration of MSG outpatient administration staff that deal only with States' patients' appointments are transferred to HSSD and integrated into the hospital administration.
72. Consistent and collated medical records are recognised as being a key safety concern. The integration of outpatient administration staff in the hospital will enable more consistency in the development and management of clinical records and reduce risk. MSG currently maintains paper-based medical records. Migration of the management of outpatients will enable those records to be converted to an electronic system, and create, together with associated hospital records, a single system. Access to a single system of clinical record will improve speed of access, improve accuracy in data recording and improve patient safety within the hospital by making all relevant patient information available to clinical staff.
73. The management of outpatients by outpatient administration staff is considered to be a key factor in working efficiently within the hospital.

Expansion of Service under MSG

74. During the current contract, the scope of the services has changed as different specialists have joined MSG bringing different skills with them. This has included, for example, ENT and breast surgery. In the redesigned contract, it will be essential to quantify and prioritise new service development based on the health needs of the community and viability of provision on-island.

Persons Covered

75. The current contract covers persons eligible under the Health and Services (Benefit) (Guernsey) Law, 1990. No reciprocal health agreement exists with the United Kingdom. However, a reciprocal agreement is in place with Jersey.
76. Eligibility for Health Service benefits, applies to anyone who is paying social security contributions, or has been resident in Guernsey or Alderney for 26 weeks or more.
77. The children of adults eligible for Health Service benefits are also eligible for benefits, as are all children in full time education in Guernsey or Alderney.

Contract Type and Service Guernsey

78. The contract will drive a continued focus on patients and seek to continuously improve clinical outcomes and experience of care.
79. The HSSD and SSD contract will seek to take forward those values and principles outlined in Service Guernsey initiative by promoting a good and proactive relationship with a fair balance of risk between the commissioner and

MSG, clearly setting out the desired outcomes and appropriate quality standards that MSG is required to meet and with improved use of technology.

80. Continuous cost improvements will be written into the MSG contract. MSG will be required to review annually efficiencies to reduce the cost of service provision, to sustain the financial viability of the service and demonstrate efficiency of working. The MSG and hospital cost improvement programme will support an ongoing process of reduction of costs through a programme of continuous financial improvement.
81. There will be a requirement that the use of technology will be proactively supported and incorporated into clinical practice to increase clinical effectiveness, safety and improved patient experience.
82. The specification of the treatment of medical conditions for Guernsey patients are not identical to those in the NHS and have evolved over time as services have developed. This sequencing of treatment from the start until the end of treatment is known as the care pathway. Some problems in the management of these pathways have sometimes resulted in waiting lists for patients and also patients being referred for potentially clinically inappropriate treatments. A key focus of the service will therefore be to support effective care pathways, thresholds and productivity within each key speciality. The pathways will also need to reach beyond the hospital and support care closer to home. There will be a need to work across organisational boundaries to support patients throughout the whole period of their care within a seamless and coordinated pathway.
83. The service will also need to fit within the wider healthcare system, building co-ordinated working with all other partners; including the Guernsey Therapy Group; St John Ambulance and Rescue Service; HSSD Off-Island services; commissioned visiting consultant services; primary care; States doctors; mental health services; social care services; third and voluntary sector; and hospital based services, both on and off-island.
84. MSG will be required to provide data reporting on service outcomes and compliance with key performance indicators covering such matters as clinical outcomes, clinical effectiveness, patient experience, quality of care, patient safety and service access.
85. Quality measurements will be continually developed throughout the whole term of the contract. If the outcomes or information on which those outcomes are based cannot be determined at the commencement of the contract these will be identified, developed and implemented during the contract. This might, for example, include the joint development and implementation of a relevant policy or the definition and establishment of a collection methodology for new information that is needed to set the relevant target or requirement. The use of

KPI's to assist this process has been previously referred to (see paragraph 58 - 60).

86. To address patient experience issues and concerns raised through the patient engagement, MSG will be required to engage with patients in the development of new care pathways or development of services. It is proposed that MSG will also be required to report on patient reported outcome measures ("PROMS"), which measure patient experience and will support improvements in this area.

Waiting times

87. The current waiting times for treatment will be reviewed as part of the redesigned contract. However, a particular focus will be on the improvement of waiting times relating to the treatment of cancer.
88. The existing waiting times are summarised in the table below.

Patient Category	Existing
Outpatients	Emergency 24 hours Urgent 7 days Routine children 6 weeks Suspected cancer referral 2 weeks All other adults 8 weeks
Inpatient and Day cases	Emergency 24 hours Urgent 7 days Cancer admissions 2 weeks Orthopaedics 8 weeks All other routine 8 weeks

89. As in the current contract, all patients will be offered specific individual appointment times for outpatient appointments.

Clinical Review

90. It is intended that each service review covered under the contract will be the subject of a review to be triggered by clinical or service changes or by changes in patient activity. Reviews may also take place following the resignation or retirements of any specialist or otherwise at not greater than 5 year intervals. This would ensure a degree of flexibility linking the service provided with the changing health needs of Guernsey.

Complaints

91. Complaints made by patients or their authorised representatives will be investigated under the appropriate complaints procedure.

Referrals to Overseas Hospitals

92. Referrals overseas for treatment will form part of an approved care pathway to be agreed by the Director of Commissioning and the new Medical Director. Medical referrals will be screened by the Off-island team for appropriateness and to support patients accessing treatment.
93. If emergency treatment is required for individuals in overseas hospitals while undergoing treatment based under the initial referral, the cost of the emergency treatment will be covered by HSSD.
94. The coordination and thresholds for patients receiving second opinions for treatment on-island or off-island will be reviewed between HSSD and MSG clinical staff.
95. Funding will be awarded for additional treatment off-island if an emergency or if it is an approved commissioned procedure and funding has been sought before treatment has commenced.

PART III RESERVE OPTION

96. This Part details the alternative option should negotiations not achieve the acceptable outcomes as required by the target date of 30th June 2016.
97. Discussions have provisionally commenced with MSG subject to States approval but there is a risk that agreement might not be able to be reached with MSG:
 - a. by a failure of the parties to agree on an acceptable form of redesigned Contract; or
 - b. within a sufficient time to enable HSSD and SSD to put in place contingency arrangements so that secondary healthcare will continue to be delivered to Islanders from 1st January 2018 in the event that agreement cannot be reached.
98. Accordingly it has been necessary to put in place arrangements to meet this risk. Those arrangements are:
 - a. the provision of a target review date, namely the 30th June 2016 by which time it is intended agreement will be reached on the form of the redesigned contract; and
 - b. in the event of agreement not having been reached the implementation of Option 4 under which HSSD provides secondary healthcare itself by recruiting the necessary consultants.
99. If clinicians and staff for a particular practice area are unable to be recruited in time for delivery of that service on 1st January 2018 then contracts with external suppliers in the United Kingdom will be used to fill those gaps either on 5 year

contracts or in a shorter term if it was appropriate to do so. Contracts currently exist with NHS bodies for some specialities and the Department would build on these relationships by seeking added value to assist in areas such as clinical governance, working practices and data capture.

100. Within the Option Appraisal (see paragraph 34) the provision of an internal HSSD service scored very competitively with the redesigned contract option. There are advantages with Option 4 in that it gives much greater financial control and flexibility in the service delivery. However it was considered that it was not the ideal time to introduce a significant new service within HSSD in the light of the considerable changes that are taking place at HSSD and in the States generally.
101. Taken together it is considered that a redesigned contract which contains the necessary safeguards, flexibility and changes in practice identified in this Policy Letter represents an exciting opportunity to deliver an excellent secondary healthcare with the undoubted skills and experience of MSG personnel. Nevertheless, the necessary preparatory work has been undertaken, as a precaution, in the event that this alternative option should need to be pursued and the service design, services specification, flexibility and financial assumptions that underpin the redesigned MSG contract option is equally as valid to the model of an internal delivery.
102. Further it is considered that 18 months will give sufficient time for the recruitment of the relevant clinical personnel whether or not this comprises MSG consultants and staff. In some respects it might even be considered that Option 4 could be less time consuming in terms of establishing the service than negotiating the redesigned contract.
103. Financial analysis has been undertaken to better understand the impact of such an option. The main difference will be that the salary costs of recruited staff will fall to be a direct cost rather than a contract cost, and it is envisaged that consultants will be recruited at market rates on broadly similar terms to other States employed medical consultants. The modelling of changes to service delivery will be undertaken in a similar way to the redesigned contract option and which is believed will deliver broadly similar savings on the current cost per consultant basis.
104. It is acknowledged that there will be some additional costs in relation to the provision of accommodation, equipment and premises and direct recruitment will entail some reorganisation of the services within the Princess Elizabeth Hospital, but these costs are of course also payable to MSG under a redesigned contract and are included in the rate per consultant figure.

PART IV THE PROPOSED ARRANGEMENTS FOR FUNDING

105. This part sets out the proposed arrangements for funding in respect of the redesigned contract. It should be noted that until the delivery of services have been designed and agreed with MSG specific figures cannot be provided. Therefore the approach taken for the purposes of funding has been to cost the service on a price per consultant, which is the funding model adopted by the current contract. As negotiations on the way that each of the service areas are designed and delivered progress the funding model will be based on a service cost rather than a price per consultant. For example if the current service is based on two consultants delivering that treatment but the new design is agreed for a single consultant and two specialist nurses, so the cost of the service will change. Since the aim of the new arrangements is to deliver increased value for money the reasonable expectation is that the overall cost of the service will decrease.
106. HSSD and SSD have considered the arrangement for funding. At present, payments made to the MSG for Secondary Healthcare provision come from the SSD Guernsey Health Service Fund, and day to day operational expenditure is borne by HSSD General Revenue budgets.

Current costs of contract with MSG

107. The current contract between the States and the Medical Specialist Group is based on a fee per consultant. In 2015, the fee is £380,007 per consultant. The States are currently paying for 42 consultant posts for agreed on-going levels of service, plus additional locum consultants in obstetrics in response to the crisis in maternity services that arose in 2014.
108. The States are paying for 39 consultants at the standard contractual rate of £380,007 per consultant.
109. The States are paying for 2 further consultants below the standard contractual rate. By agreement of the parties, the most recent anaesthetist appointment is being paid for at 80% of the standard rate and a locum cardiologist is being paid for at 90% of the standard rate.
110. The States are also paying £203,693 for part share of the cost of an ophthalmologist in connection with the recently introduced service for age-related macular degeneration ARMD and macular oedema.
111. The cost of the two locum Obstetricians and Gynaecologists in 2015 is expected to amount to £1.3m for the year. These have been, of necessity, costly agency appointments pending the determination of the permanent consultant staffing numbers arrangements in this speciality. Within these costs is reimbursement of the locum consultants' professional insurance premiums, which are higher in this speciality than in any other.

112. The expected total cost of the contact with the MSG for 2015 is £17.35m.

Future cost of contract with MSG

113. In HSSD's report to the States in July 2015 on Maternity Services and Other Key Reviews (Billet d'État XIV of 2015) it was noted that there could be additional cost to the Guernsey Health Service Fund of up to £4m per annum through the requirement to appoint up to 10 additional medical consultants across several specialties, including obstetrics and gynaecology, anaesthetics, and paediatrics.
114. If this were to occur and be financed under the existing contractual arrangements, the cost of the contract would increase from around £17.4m per year to around £21.4m per year in 2015 prices. However, the negotiations will seek to introduce improved value for money in accordance with the seven strategic objectives outlined in paragraph 14a.
115. Although discussions with the MSG have commenced, it would be inadvisable to estimate the cost of the redesigned contractual arrangements at this time. Both parties will be looking for opportunities to reduce the current per-capita rate through efficiencies. MSG's business overheads are covered by the per-capita costs.
116. HSSD is pleased to report that all parties to the negotiation accept the need for greatly increased openness and transparency in the MSG's business than was acceptable when the contracts were negotiated in 1995 and 2002. It will be a requirement of any future agreement that is reached with MSG that the States representatives have full access to accounts and all other financial reports that may be required. Demonstrating their acceptance of this requirement, the MSG has already provided the States' Treasurer with their financial accounts.
117. Under the redesigned contract, payments made to the MSG will continue to be funded from the Guernsey Health Service Fund and daily expenditure for the Princess Elizabeth Hospital will be funded from HSSD General Revenue. This will result in a small projected increase to HSSD General Revenue budget, excluding any impact of redesigned contract revisions for ongoing contract management and monitoring (see paragraphs 120-126).
118. The current contract cost is therefore projected to be on a per consultant basis the sum of this being the number of consultants times the negotiated cost per consultant. As indicated above this figure is provisional for the purposes of this Policy Letter but the actual contract costs are expected to result in savings once the service delivery has been agreed.
119. The costs for the alternative option, (direct employment of consultants), is addressed in paragraphs 99 to 103 but in general it is not anticipated that there will be any additional cost for the alternative option and indeed there may be a reduction in cost.

Capital

120. There are no anticipated capital costs for implementing this contract.

Implementation Cost

121. It is recognised that the commissioning and contract management and monitoring infrastructure needs to be improved in order to secure the advantages of the new service management approach comprised in the new contract model. Service management requires joint working and joint accountability between the States and MSG to deliver optimum quality healthcare to patients and best value for money. This gives rise to two cost implications.
122. First, the implementation costs below relate to the one-off, non-recurring spend that will be incurred in 2015 and 2016 in order to implement a redesigned contract with MSG. Funding for Implementation costs are £1,018k. These implementation costs are funded jointly by HSSD and SSD:

Category	2015 Cost (£,000s)	2016 Cost (£'000s)	TOTAL COST £'000s
Project Management Personnel	87	239	326
Data and Analysis Personnel	51	96	147
Contract Personnel	52	143	195
Clinical Senate	43	20	63
Telemedicine Contract	15	0	15
Clinical Pathways Recommendations	50	75	125
Office Set-up and Administration	5	10	15
Contingency	45	87	132
TOTAL	348	670	1018

Impact of the redesigned contract on HSSD costs and staffing

123. Second, entering into a redesigned contract with the MSG will cause a change to on-going expenditure and staffing.

On-going Revenue Expenditure

124. As stated in paragraph 120 implementation of a redesigned contract between MSG and the States of Guernsey will require additional levels of governance, monitoring and reporting. Therefore, two additional full time roles will be required to carry out the necessary activity.

These roles are:

- a. Business Intelligence Officer - £47.7k per annum
- b. Contract Manager - £62k per annum

125. There will also be an expected increase in cost resulting from more robust governance arrangements. This is anticipated to be £37.8k per annum.
126. Accordingly the total change to HSSD General Revenue expenditure is expected to be an increase of £147.5k per annum from 1st January 2017.

PART V CONCLUSIONS AND SUMMARY

127. HSSD and SSD consider that the specialist health insurance scheme has been highly successful in its operation since its introduction nearly 20 years ago. It has removed any financial barriers to accessing specialist medical care in Guernsey. Statistics show that in 2014 8,069 theatre episodes were carried out by MSG surgeons.
128. HSSD and SSD consider that the community is generally satisfied with the quality of the secondary healthcare services.
129. Provided that significant changes can be agreed in its form and terms, HSSD and SSD consider that the proposed redesigned contract with the MSG will offer good value.
130. There is no significant difference in the cost of a States employed service, under which HSSD directly employs the same range of medical specialists. Other factors including the potential upheaval to the current service at a time when there is general reorganisation within HSSD and a wider reorganisation of the States have led both HSSD and SSD to conclude that at this time the redesigned contract represents less risk. Nevertheless the direct provision of secondary healthcare is a financially viable and feasible option for HSSD and SSD in the event that the important and significant changes to the redesigned contract cannot be agreed by the 30th June 2016 target date.
131. The proposed redesigned contract will, if agreed, offer a significantly different and much improved structure to those arrangements currently in place. The proposal will it is believed, bring real improvements for many services areas in quality, accessibility, safety and improved value for money. It will improve governance and provide flexibility in working. At the same time the proposal retains the highly regarded services of the current MSG consultants.

132. HSSD and SSD believe that the new proposals are fully consistent with and support the new initiative as to the way that the public sector is to operate in Guernsey as outlined in the Service Guernsey agenda.
133. MSG have themselves also acknowledged that a redesigned outcomes based contract is required.

RECOMMENDATIONS

The Health and Social Services Department with the support of the Social Security Department therefore recommends:

- (i) That the States endorse the Health and Social Services Department and Social Services Department on behalf of the States of Guernsey to enter into negotiations, and subject to those negotiations leading to an acceptable form of contract based on the seven objectives set out in paragraph 15(a) of this Policy Letter, enter into a rolling five year contract, subject to a right for either party to terminate the revised contractual arrangements with not less than two years' notice before the expiry date of any five year contract term.
- (ii) Approve the transfer of £174,000 in 2015 and £335,000 in 2016 from the Budget Reserve to revenue expenditure budget of the Health and Social Services Department to fund the project.
- (iii) That if negotiations with Medical Specialist Group do not lead to an acceptable form of contract generally in accordance with the proposals contained in this Policy Letter to endorse Health and Social Services Department to proceed to set up the direct internal provision of secondary healthcare and to directly provide secondary healthcare by no later than 1st January 2018.

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

Yours faithfully

P A Luxon
Minister

H J R Soulsby
Deputy Minister

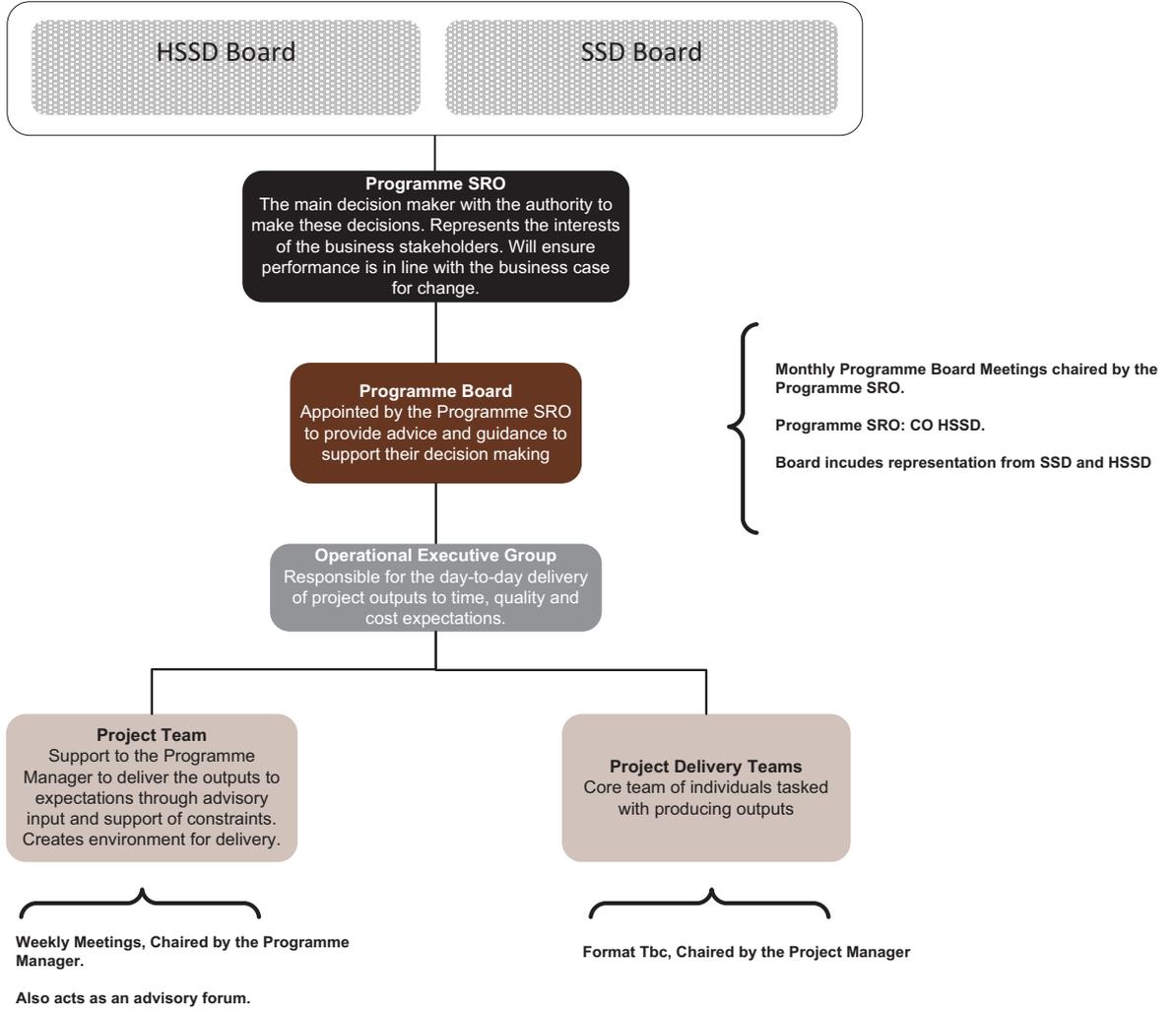
M K Le Clerc
S A James MBE

RH Allsopp OBE
A Christou
Non States Members

Pursuant to Rule 15 of the Rules relating to the Constitution and Operation of States Committees Deputy M. P. J. Hadley declared an interest and did not participate in the discussion and voting on the matter.

APPENDIX 1

Governance structure



APPENDIX 2

Clinical Senate Membership

The first Guernsey Clinical Senate Assembly was held on the 1st and 2nd July 2015 and formed one part of the secondary healthcare programme. The Senate was part of a multi-stage process to evaluate two options for the delivery of secondary healthcare in Guernsey. The options were:

- Option 3: Redesigned contract with MSG
- Option 4: Develop an in-house provision.

The independent Senate Assembly Members included:

- Andrew Mortimore, Director of Public Health Southampton City Council
- Susan Warburton, Assistant Director of Nursing (Patient Experience) NHS England, Lancashire Area Team
- Amy Page, Chief Nurse Croydon CCG and independent healthcare improvement consultant
- James Thallon, Medical Director NHS Kent & Medway

The Clinical Senate Objective was to use clinical knowledge and expertise to produce a risk-based assessment of how the options perform against the key principles specific to Guernsey. It was based on a review of evidence and products specifically relating to the circumstance of Guernsey and its population. The Clinical Senate represented best international practice for the harnessing of clinical expertise and leadership in the development of services.

APPENDIX 3

Option Appraisal

Option 1. Do nothing

The disadvantages of Option 1 are;

- Not an option; contract will end in two years' time.
- Opportunities to realise project benefits are lost
- Unsafe health system and possible deaths in community, cost, reputational damage
- Service delivery could cease prior to contract end due to MSG ceasing trading
- Reduced likelihood of successful GMC revalidation
- Reputational damage

The advantages of Option 1 are;

- Some MSG staff might move to be employed by States if MSG ceased trading. The number of consultants and likelihood of this happening is uncertain.
- Reduced States expenditure

Option 2. Roll over the existing contract

The disadvantages of Option 2 are;

- Opportunities to realise any short term service improvements would be lost
- It would not be possible to support wider service reform in the States
- Service delivery could cease prior to contract end due to MSG ceasing trading
- Currently no evidence on service outcomes; effectiveness; quality; safety;
- No evidence collected to demonstrate value for money
- Change is required to increase P.E.H efficiency e.g. theatre management
- MSG has stated that a 1-3 year extension would not be acceptable by them
- The States and MSG agree that the current contract is not fit for purpose
- Before any redesigned contract is introduced, the provider must be financially audited
- Service providers can cease trading
- Unlikely to meet the regulatory requirements leading to service instability

The advantages of Option 2 are;

- Increased time to collect and interpret health intelligence information to support service planning

- The provider would no longer be under acute stress and more likely to support Health Needs Assessment

Option 3. Introduce a redesigned Contract

The disadvantages of Option 3 are;

- Limited project resource might be utilised on short-term solutions, not long-term States objective
- MSG could ceasing trading
- The degree of variation and scope of service change needs to be defined
- Possible lack of flexibility in the MSG business model making it unresponsive to proposed changes
- The provider might try to be selective in their preferred work areas and exclude other work streams
- MSG has stated that a 1-3 year extension would not be accepted to them
- Agreement on the contract would not be easily achieved
- Before any redesigned contract is introduced, the provider must be financially audited
- Service providers can cease trading
- Need to meet all regulatory requirements e.g. GMC

The advantages of Option 3 are;

- Potential for continuity in service provision
- MSG could support future service developments
- Introduction of clarity over provider and commissioner responsibilities
- Opportunity to realise short term service improvements
- Any short term changes and negotiations would inform the wide scope and objectives of the project
- This option does not narrow any future options, depending on the contract notice period

Option 4. Integrate the MSG into the States

The disadvantages of Option 4 are;

- What the States would actually be seeking to acquire though an asset purchase needs to be fully defined
- PEH has issues over retention and recruitment; MSG anticipated 25% of workforce to retirement over next 5 years; however, States not MSG employment, might attract a different type and number of Consultants
- The initial cost and long term cost benefit needs to be quantified; initial cost cannot result in restrictions to future service development
- The right terms and conditions would be needed to attract new staff
- Strong medical leadership would be required and clear roles and responsibilities for Consultants
- Needs to meet all regulatory requirements
- Possible reputational damage

- Some MSG staff have indicated that they would want to be States employed, but not all will, therefore there will be recruitment costs for new staff

The advantages of Option 4 are;

- Long-term savings could be realised
- Increased control over service provision
- Increased integration of working within PEH
- Remove need for contractual management of service
- All resource focused on long-term States objectives
- Improved governance
- Legal leverage to support this option would be available
- States employed staff, negates the risk of a provider withdrawing from a contract or cease trading

Option 5. Phase out the MSG and integrate Consultant employment into States employment

The disadvantages of Option 5 are;

- P.E.H has issues over retention and recruitment of staff
- Provider contract arrangements would be needed until an adequate States recruitment was realised
- Strong medical leadership would be required and clear roles and responsibilities for Consultants
- Possibly increased operational division between MSG and PEH staff
- MSG might cease trading due to financial viability
- Longer time frame and possibly increased fragmentation of services over that time period.
- Service needs to meet all regulatory requirements
- The right terms and conditions would be needed to attract and retain staff
- Increased capabilities to recruit and retain staff would be needed
- The States and MSG service provision would need to meet regulatory requirements e.g. GMC

The advantages of Option 5 are;

- Consultants could be attracted to work for States with the right relocation package
- Possible contract leverage for service improvements
- Long-term savings could be realised; finance needs to be reviewed
- Increased control over service provision
- Possible improvements in governance, quality and effectiveness
- States employed staff, negates the risk of a provider cease trading

Option 6. Decommission the MSG and commission a new on-island service provider

The disadvantages of Option 6 are;

- Some market appetite for service provision
- Time probative to this option; need to plan what is required, procure and introduce service
- High relationship risk for contract
- Potentially replicating provider monopoly
- Potentially increased costs from introducing another provider

The advantages of Option 6 are;

- Potentially increased value for money from another provider
- Introduce a stronger contract and parameters
- Possible improvements in governance, quality and effectiveness
- Possible improvements in team working
- States employed staff, negates the risk of a provider withdrawing from a contract or cease trading

Option 7. Shared jurisdiction of care

The disadvantages of Option 7 are;

- Appetite from other jurisdictions to collaborate
- Would benefits from synergies emerge by joining the two jurisdictions together or would current difficulties facing both jurisdictions simply continue.
- Time could be probative to this option
- High relationship risk
- Service needs to meet all regulatory requirements
- Longer time frame service option
- Clarity on roles and responsibilities would be required

The advantages of Option 7 are;

- Potentially increased value for money
- Cost saving in avoiding duplication of service provision
- Introduce a stronger contract and parameters
- Possible improvements in governance, quality and effectiveness
- Possible improvements in team working

Option 8. Establish a formal partnership arrangement with an overseas provider

The disadvantages of Option 8 are;

- Transportation linked to and from the island could affect service provision unless on-island consultant provision is included in a contract
- Strong medical leadership would be required and clear roles and responsibilities for Consultants

- Appetite or capacity of overseas providers
- Possibly a longer time frame service option
- Possibly increased operational division between staff in the short term
- Cost management
- Accommodation for staff
- Alignment with an N.H.S provider might not be politically palatable; other providers are available

The advantages of Option 8 are;

- Validation process and adherence to regulators could be improved
- Reduced pressure on P.E.H over retention and recruitment
- New providers could potentially increase the level of innovation and improved ways of working e.g. new treatments, care bundles
- Possibly increased effectiveness and quality of service provision
- Increased flexibility
- Reduced costs

APPENDIX 4

SSD letter of support for HSSD Policy Letter on Secondary Healthcare Arrangements from 2018.

**SOCIAL SECURITY**

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

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Deputy P A Luxon
 Minister
 Health and Social Services Department
 Le Vauquiedor
 St Andrew
 Guernsey
 GY6 8TW

Our Ref:

Your Ref:

Date: 8 September 2015

Dear Deputy Luxon

Arrangements for Secondary Healthcare from 1 January 2018

This letter is to confirm the Social Security Department's full support for the Health and Social Services Department's proposed approach to the arrangements for secondary healthcare.

The Social Security Department has been closely engaged in the development of the proposal through membership at political and staff level on the Secondary Healthcare Programme Board. The Department fully supports the Programme Board's recommendation that, subject to reaching agreement on satisfactory terms, the States should enter an entirely new contractual relationship with the Medical Specialist Group. All parties agree that the nature of any new contract has to be substantially different to the 15 year contract that is currently in place. The 15 year contract followed the initial 7 year contract that introduced free at point of delivery specialist care in Guernsey. That was a ground-breaking policy of great benefit to the residents of Guernsey and Alderney. The 15 year contract was intended to secure the long-term partnership working of the States and the MSG. With that in mind, the long-term contract was considered entirely appropriate by the parties in 2002 and has been largely successful. However, with the significant changes in the delivery of medicine, regulation and governance that have occurred during the term of the contract it is now clearly appropriate to adopt a very different approach.

The shortcomings of the current contract to respond to these changing circumstances have been increasingly apparent to all parties in recent years. This needs more than revision of a few of the terms. As is well explained in the Policy Letter, an entirely new contractual relationship is required, based around required services and outcomes, and on a 5 year rolling contract term with a 2 year notice period.

The option of the States employing their own consultants, which would need to be put into effect in the event of an agreement with the Medical Specialist Group not being reached, is a viable option. The Department is well aware that the States-employed model has twice been rejected by the States in the past, in 1995 and 2002. However, the Department believes that this option would be significantly less desirable than the report's proposed solution at the important period of change for the Health and Social Services Department.

The Department's clear preference is to reach an agreement with the Medical Specialist Group on a contractual relationship as outlined in the Policy Letter. Subject to States approval of the proposed approach, the Department is hopeful that such an agreement can be reached by the target date of 30 June 2016. The Department will continue to work closely with the Health and Social Services Department, on behalf of the States, in order to meet that aim.

Yours sincerely

A handwritten signature in blue ink, reading "Allister Langlois", with a horizontal line drawn underneath it.

A H Langlois
Minister

(N.B. The Treasury and Resources Department has noted the considered approach to reviewing the contractual arrangements for the provision of on-island secondary healthcare services taken by the Health and Social Services and Social Security Departments, and in particular the seven fundamental patient and service focussed objectives that underpin the proposed re-designed contract and that one of these is *“Improved value for money services, including cost efficiencies and cost reductions wherever possible.”*

The work recently commissioned by the Treasury and Resources Department in partnership with the Health and Social Services Department to cost, benchmark and prioritise health and social care services concluded that *“Health and care services resident within both Health and Social Services Department and Social Security Department budgets are 17% more expensive than peer group. This translates into a potential annual saving of £24million against health and care costs of £139.0million deliverable over 7 to 10 years. A prudent risk-adjusted assessment of potential efficiency gains deliverable within the Health and Social Services Department budget alone identified annual savings of £7.4million deliverable over a 3 to 5 year period against total [baseline] costs of £116.6million equating to 6%.”* It is therefore the clear and firm view of the Treasury and Resources Department that significant financial benefits should be sought and realised through this process and through the proposed further integration of the important and valuable services provided by the MSG into a whole healthcare system approach.

The Treasury and Resources Department therefore notes that the Health and Social Services Department has outlined the likely increased costs post-contract agreement, but assumes that these will be very significantly offset by ongoing savings in the overall cost to the public purse.

The Health and Social Services Department is seeking a further £509,000 funding for this project in addition to the £222,000 previously approved by the States. This will take the total cost of running the project to some £1.5million, once the costs charged to the Health Services Fund by the Social Security Department are also considered. Although these are material sums, the Treasury and Resources Department considers that they are proportionate to the size, importance and complexity of the contract. However, the Department does consider that project expenditure needs to be carefully controlled and managed and transparently disclosed.

The Treasury and Resources Department notes that a redesigned contract with the Medical Specialist Group is the clear preferred option, although considers that the risk for both parties is increased through not having a firm end date to contract negotiations. Notwithstanding that the Health and Social Services Department is seeking authority to proceed to set up the direct internal provision of secondary healthcare should negotiations not

succeed. In the unlikely event that this option is pursued, there would need to be robust governance and controls to ensure that the model implemented adequately manages risk and controls costs while delivering services which meet the objectives set out by the Health and Social Services Department in this Policy Letter.

In light of the current financial position, the recent need to increase substantially the expenditure on health and social care services and in echo of its comment on the Health and Social Services Department's Policy Letter entitled 'Maternity Services and Other Key Reviews (Billet d'État XIV 2015), the Treasury and Resources Department stresses that there will be ongoing need for financial targets and prioritisation. Financial disciplines will need to be at the forefront of all decision-making. Government must continue to seek continuous improvement and efficiency to ensure that imminent and future unavoidable cost pressures can be mitigated and sustainably funded. Funding all of the services required and expected by service users will involve difficult decisions in ensuring that taxpayers' money is targeted in the right areas and on the right services that deliver the best possible outcomes. The Treasury and Resources Department therefore considers that no aspect of public expenditure can be left unchallenged and that there will be an increasing focus on the need to demonstrate value for money in the public services being provided in order to ensure sustainable services are delivered and spend every pound of taxpayers' money wisely.

Finally, the Treasury and Resources Department considers that the Transforming Health and Social Care Services programme which it has recommended for prioritisation for funding from the Transformation and Transition Fund as part of the 2016 Budget Report, and which intends to address the social, clinical, financial and structural challenges through a structured transformation programme is one of the most critical challenges facing the public service in Guernsey. This programme will be large and complex and include multiple inter-dependencies, scheduling challenges, risks and opportunities. It is vital that it is properly planned and co-ordinated in order to ensure that investment, such as the £1.5million in respect of the Secondary Healthcare Programme, is used to best effect to deliver the 'reform dividend.)

(N.B. The Policy Council applauds the work undertaken by the Health and Social Services Department and the Social Security Department to review the contractual arrangements by which Islanders receive secondary healthcare services. It is clear that this review has been both extensive and comprehensive, in keeping with the importance of this contract and its significant cost.

The Policy Council is particularly pleased to note the emphasis upon developing a service-led, outcomes-focused and patient-centred relationship

with the Medical Specialist Group, with value for money as a key objective. While the previous arrangements have satisfied their original objective of removing the fear and worry Islanders historically felt when confronted with sizeable bills for specialist consultations and operations, the community can rightfully expect in the 21st Century that clinical effectiveness and value for money should be measured and routinely reported on, rather than assumed to be ‘givens’.

The clear intention to re-contract with the Medical Specialist Group is noted, but should negotiation of revised terms not be satisfactorily progressed by the end of June 2016, then the Policy Council fully supports the option for the services to be provided directly through the Health and Social Services Department from January 2018.)

The States are asked to decide:-

X.- Whether, after consideration of the Policy Letter dated 20th September, 2015, of the Health and Social Services Department, they are of the opinion:-

1. To endorse the intention of the Health and Social Services Department and Social Services Department, on behalf of the States of Guernsey, to enter into negotiations, and subject to those negotiations leading to an acceptable form of contract based on the seven objectives set out in paragraph 15(a) of that Policy Letter, enter into a rolling five year contract, subject to a right for either party to terminate the revised contractual arrangements with not less than two years' notice before the expiry date of any five year contract term.
2. To approve the transfer of £174,000 in 2015 and £335,000 in 2016 from the Budget Reserve to revenue expenditure budget of the Health and Social Services Department to fund the project.
3. That if negotiations with Medical Specialist Group do not lead to an acceptable form of contract generally in accordance with the proposals contained in that Policy Letter, to endorse the intention of the Health and Social Services Department to proceed to set up the direct internal provision of secondary healthcare and to directly provide secondary healthcare by no later than 1st January 2018.

ENVIRONMENT DEPARTMENT**BIODIVERSITY STRATEGY**

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

17th August 2015

Dear Sir

1. **EXECUTIVE SUMMARY**

- 1.1. This Policy Letter recommends the States to approve a strategy for the protection and enhancement of Guernsey's biodiversity and by doing so to progress the aims of the States Strategic Plan 2013-2017 in respect of the Island's natural environment. It also sets out how this can be successfully achieved in the short and longer terms through a partnership approach with others.
- 1.2. A Departmental Biodiversity Project Group ("BPG") was set up in July 2012 and consisted of two political members on the Environment Department Board, three members of staff from the Environment Department and two members of La Société Guernesiaise. The group was tasked with investigating policy options to enable the preparation of a Biodiversity Strategy ("the Strategy") and how it could be implemented. The BPG was also asked to consider the detailed requirements necessary to extend the United Kingdom's signatory to the Convention on Biological Diversity ("CBD") to Guernsey.
- 1.3. As a result of its consultations and research the BPG acknowledged that biodiversity underpins the living fabric of our countryside as well as the marine environment; and is therefore a fundamental component of what makes Guernsey an attractive place for visitors and residents; as well as to those who are considering relocating to our island. For example, a healthy and sustainable ecosystem is essential to support a viable fishing industry, worth around £4 million annually and provides the foundation for agriculture and supplies of clean raw water.
- 1.4. The Environment Department fully supports the BPG's broad conclusions that a strategy to protect biodiversity should aim to support and protect the living components of Guernsey's natural environment upon which we depend in part, socially and economically. In setting out to achieve its aims a strategy should recognise that biodiversity:

- Is vital to the long term health of our marine and terrestrial habitats and is an essential contributor to Guernsey's economy;
- Enriches the quality of life through our affinity with nature and wildlife;
- Is essential for our own survival. Living things interact in a myriad of complex and inter-related ways to provide a range of conditions that favour life;
- Should be protected and requires us to be good custodians to ensure that what we enjoy and cherish today will still be there for future generations.

1.5. The Environment Department recommends that the Strategy includes the following elements:

- a Vision Statement to encompass the aims, objectives and key actions;
- a general review of wildlife resource and habitats of the island;
- identification of the threats to the island's biodiversity;
- a system to assess the relative importance of known threats and a system to prioritise approaches to their removal or mitigation;
- criteria for the identification of priority species and habitats;
- a framework to prepare an "Agenda for Action" which delivers a set of action plans under the following themes:
 - Conservation;
 - Policy and Legislation;
 - Education;
 - Community Participation;
- a way to monitor and review the effectiveness of the Strategy;
- a way to ensure implementation and accountability.

1.6. In order to fund the Strategy, a minimum value for the level of extra resources required would be in the order of £80,000 per annum, including labour and non-labour costs.

1.7. The Environment Department also recommends that Guernsey joins the other Crown Dependencies in extending the United Kingdom's signatory of the CBD. The CBD requires that signatories produce a national strategy for the sustainable use of biological resources and integrate, as far as possible, the conservation of biological diversity into sectoral plans and policies. Extension of the CBD will allow Guernsey to formalise its commitment to conserving its natural environment and reinforce the actions taken by multiple jurisdictions at a regional level to protect and enhance biodiversity.

2. BACKGROUND

- 2.1. On 27th March 2013 the States approved the revised Statement of Aims as set out in the States Strategic Plan 2013-2017¹. The aims of the Environmental Policy Plan (one of three core policy plans which make up the States Strategic Plan (“SSP”)) are to protect and improve the Island’s environment, unique cultural identity and rich heritage.
- 2.2. The high level aims outlined in the current SSP build upon those previously identified in the preceding 2010-2015 SSP which included the aim of “*protecting the Island’s natural environment*”. The updated and current SSP has reinforced this approach by recognising that the aim of protecting the natural environment requires “*policies which protect the natural environment **and its biodiversity** by accounting for the wider impacts that human activity has on it*”.
- 2.3. As part of the development of policies aimed at protecting the natural environment and biodiversity the Environment Department set up a BPG in July 2012. The BPG was made up of two political Board members, two representatives from La Société Guernesiate and three Departmental staff. The BPG was tasked:
- i. To bring to the Board of the Environment Department detailed proposals including policy options to enable the drafting and implementation of a Strategy for Guernsey covering the terrestrial and marine environments;
 - ii. To identify and evaluate the detailed requirements necessary to extend the United Kingdom’s signatory to the CBD to Guernsey and to assess the costs and benefits of such extension including bringing appropriate recommendations to the Board.
- 2.4. During the course of its work the BPG consulted with a range of organisations and individuals including staff from relevant government departments, in particular the Commerce and Employment Department, who provide a number of specialist services relating to areas such as plant and animal health, agriculture and sea fisheries.
- 2.5. The Project Group also received submissions from a range of individuals and organisations. A draft Strategy was prepared which went out for public consultation during September and October 2014. The Strategy (as amended following consultation) was then submitted to the Board of the Environment Department for approval and is appended to this Policy Letter – Appendix 1.
- 2.6. A strategy which is effective in protecting biodiversity should be cross cutting and form an integral part of the Environmental Policy Plan, the stated aim of which, is to ensure that consideration of the environment will be core to all

¹ Billet d’État No VI dated 15th February 2013. Policy Council States Strategic Plan 2013-2017

policy decisions; that the quality of the environment will be protected and enhanced; and that the Island will respond in an environmentally sustainable way to local issues and global challenges.

2.7. A number of specific conclusions were also drawn by the BPG which are of particular concern:

- Biological diversity is in significant decline in Guernsey;
- A number of habitats which underpin that diversity have been lost, are shrinking, or have been degraded;
- Threats to biodiversity are increasing in number and intensity such as changes to the way land is managed, levels of disturbance from human activity and climate change;
- Limited data on population trends and health status of our biodiversity, in particular the marine environment, places a constraint on the effective management of our ecosystems and the services they provide.

2.8. On a brighter note the BPG also concluded:

- Non-Government Organisations (“NGOs”) such as La Société Guernesiaise, Guernsey Conservation Volunteers as well as a number of individuals are active and dedicated to the cause of wildlife and habitat conservation;
- Delivery of government policies through the Commerce and Employment Department (Dairy Farm Management Contracts) and the Environment Department (Guernsey Biological Records Centre, management of environmentally important public land, land use policies etc) make a positive contribution to protecting biodiversity;
- The public has, in general, an affinity for wildlife and nature and understands to some extent the need for conservation, at least for our more charismatic species, e.g. Puffin and Oystercatcher;
- Opportunities to work in partnership right across government, commerce and the public not only exist but are seen as essential if any strategy is to succeed.

3. **CONTEXT**

3.1. In the Channel Islands, as a whole, over 13,000 species of plants, animals and fungi have been recorded (not counting single celled organisms such as algae). Being part of a set of islands which are the furthest south in the British Isles Guernsey has a different set of species from most of the United Kingdom with some species that are not found on the Mainland. The terrestrial species found here are effectively a subset of those in north-west France. Some species hold cultural significance as they are named after the islands such as Guernsey Vole, Guernsey Centaury and Guernsey Elm.

- 3.2. The second Habitat Survey of Guernsey published in 2010 identified 42 different habitats. Of these habitats several, including Unimproved Marshy Grassland², Unimproved Dry Grassland, Coastal Grassland and Coastal Heathland are regarded as important because of the rich biodiversity they support.
- 3.3. Conservative estimates suggest that Guernsey has lost 80 species of animal and plant in the last 100 years, mainly as a direct result of habitat destruction and to a lesser extent changing management regimes. However the true figure is likely to be significantly higher. Amongst birds alone fifteen species including Mistle Thrush, Skylark, Lapwing, Dartford Warbler and Cuckoo no longer breed in the island or are locally extinct. Fourteen other species of bird such as Swift, House Martin, Puffin and European Shag are seeing dramatic declines in their populations. Even species once considered commonplace such as House Sparrow, Song Thrush, Herring Gull and Oystercatcher are now listed as “Red Data Species”³ because of sudden and rapid declines in their breeding populations.

Table 1: List of bird species in Guernsey whose breeding populations are now lost or suffering serious declines in their populations⁴

Lost as a Breeding Species in Guernsey	Species in serious population decline in Guernsey
Skylark	Puffin
Cuckoo	Oystercatcher
Reed Bunting	Song Thrush
Mistle Thrush	Swallow
Dartford Warbler	Swift
Turtle Dove	Sand Martin
Yellowhammer	House Martin
Ringed Plover	House Sparrow
Kentish Plover	Meadow Pipit
Wryneck	Linnet
Yellow Wagtail	European Shag
Spotted Flycatcher	Stonechat
Common Tern	Starling
Golden Oriole	Herring Gull
Storm Petrel	Northern Fulmar

² The term “unimproved” refers to grassland habitats which have not received any fertiliser or lime. Improved grasslands have much lower levels of biodiversity

³ Various criteria for Red Data Listing exist. One such criteria measures Breeding Population Decline. A Red Data species under this criterion is severe decline in the breeding population size of more than 50% over 25 years.

⁴ Source: Guernsey Biological Records Centre

- 3.4. Significant losses of biodiversity such as those referred to above are reflected elsewhere. In the United Kingdom Mainland the “State of Nature” report published in May 2013 by a collective of 25 conservation and research organizations, including the RSPB, found:
- 60% of the 3,148 United Kingdom species assessed have declined over the last 50 years and 31% have declined strongly;
 - Half of the species assessed have shown strong changes in their numbers or range indicating that recent environmental changes are having a dramatic impact on nature. Species with specific habitat requirements seem to be faring worse than generalist species;
 - Of more than 6,000 species that have been assessed using modern Red List criteria, **more than one in ten are thought to be under threat of extinction**;
 - There is a lack of knowledge on the trends of most of the United Kingdom’s species. As a result quantitative trends are given for only 5% of the 59,000 or so terrestrial and freshwater species and for very few of the 8,500 marine species.
- 3.5. A number of habitats in Guernsey which underpinned its biodiversity have already been lost, are shrinking or have been degraded.⁵ Habitats are by definition a living dynamic and some of these changes occur naturally, for example scrubland that matures into woodland over many years and may not necessarily result in loss of overall biodiversity but merely a change in its composition. Other changes are the result of human activity which, in many cases, has a less benign and more rapid influence on flora and fauna, e.g. regular mowing, fertiliser applications, ground disturbance and compaction which can result from a change in land use or the way land is managed. One habitat, dune heath, appears to have been lost from the islands since the first habitat survey was done in 1999.
- 3.6. Despite being a relatively densely populated island (13% of its land area is developed), Guernsey contains a surprisingly wide variety of habitats. Much of the undeveloped land, in general, is highly managed including a high proportion of farmland.

⁵ Habitat Survey of Guernsey, Herm, and Associated Islands 2010. Environment Dept.

4. CURRENT POSITION

The Role of Agriculture

- 4.1. Approximately 38,600 verges of land in Guernsey (40% of the island's land surface) is classed as available to agriculture of which about 8,000 verges is used by dairy farmers and 1,500 verges by potato and vegetable growers. The remaining area is used for horses and other recreational pursuits. There are 15 dairy farms on Guernsey which together keep about 2,500 Guernsey cattle for dairy production.
- 4.2. Consequently policies which apply to land use in relation to agriculture and farming itself will have a proportionately large impact on the environment, including biodiversity. In recognition of this a Guernsey Countryside Management Scheme was implemented and has been in place since 2001 having been revised in 2009. As part of the Scheme the Commerce and Employment Department has developed farm biodiversity action plans with all dairy farmers in the Island. In this regularly revised and monitored plan they work to encourage wildlife on farms within the island. The plans have the potential to be extended to other farming enterprises and landowners.
- 4.3. It should not be forgotten that the Guernsey cow is of course itself an example of biodiversity. The Guernsey breed is recognised as an important element of agro-biodiversity and in turn of agro-ecosystems and of our cultural heritage.
- 4.4. In a report by the Dairy Industry Review Working Group, published last year, one of its conclusions underscored the important role agriculture can continue to play in supporting biodiversity by stating Dairy Farm Management Contracts:

“ . . . must maintain the current animal welfare and breed improvement requirements, the limits on stocking density, and the need to have a biodiversity action plan in place for the land farmed”⁶.

Marine Biodiversity

- 4.5. Until relatively recent times humanity's impact on the marine environment has been minimal compared to our impact on land. Concern has grown in recent years over the impact of overfishing, disturbance, more intensive shore gathering, pollution, spread of invasive non-natives and the potential impacts of offshore development.

⁶ Dairy Farming in Guernsey and the Future. Report by the Dairy Industry Review Working Group. Commerce and Employment Department (2013 -14)

- 4.6. The marine ecology of the Bailiwick is rich and diverse. Guernsey's geographic location and large tidal differences create and support a diverse range of habitats. The convergence of cold and warm bio-geographic regions support an array of species which include rich plankton "rivers" which flow eastward from the Atlantic to the North sea. The large tidal range supports a particularly large and bio diverse range of organisms in the intertidal habitats. Three main elements make up the biological marine environment are:
- Sea bed - (Benthic zone);
 - Open seas – (Pelagic zone);
 - Intertidal zone.
- 4.7. Many species are adapted to living in one specific habitat. Whereas others utilise more than one e.g. shore and wading birds which may use more than one habitat for nesting and feeding.
- 4.8. A healthy benthic ecosystem is important to support shell fish and flat fish populations. Pelagic systems support a wide range of fish and mammal populations. Healthy and well managed intertidal areas are essential to support mariculture and Ormer gathering which is part of a firmly established tradition of shore gathering in the island.
- 4.9. Globally fishing provides an important source of protein as well as underpinning an industry (worth £4 million in Guernsey in 2012) which is wholly reliant on a healthy marine ecosystem.
- 4.10. Several habitats regarded as a priority for conservation may be found around the islands including Eelgrass beds (which provide spawning grounds for species such as Sea bass and Black sea bream), Maerl beds and tidal rapids. The coastlines and islets of Guernsey, Herm and Sark provide the breeding sites for thirteen species of seabird, regarded as important indicator species for the health of marine ecosystems. Certain species such as Lesser Black-Backed Gull hold international importance because local populations represent a significant proportion of the regional population.

Role of the States and NGOs as land managers

- 4.11. A significant area of land falls under the management of bodies such as the States and NGOs such as La Société Guernesiaise, Vale Commons Council and the National Trust of Guernsey, including the intertidal areas which are owned by the Crown and administered by the Environment Department. A significant proportion of the land owned by the States, La Société and National Trust contain a number of important habitats and sites including several Sites of Nature Conservation Importance⁷ ("SNICIs").

⁷ Sites of Nature Conservation Importance (SNICIs) are non-statutory designations which can be defined as important ecological habitats which make a special contribution to the environmental quality of the

- 4.12. Taken together the land managed by the States and NGOs represents important areas which have the potential to be greatly influenced by policy and management decisions by a relatively small number of people. An effective Strategy should take account of this by ensuring that organisations with responsibilities for the management of significant areas of land work together if the aims of the Strategy are to be met.

Threats to Biodiversity

- 4.13. Current and potential threats to biodiversity are increasing in number and intensity and include changes to the way land is managed, levels of disturbance from human activity and climate change. The Strategy's overall aim will seek to mitigate and/or adapt to threats, where it is practical and worthwhile to do so and subject to available resources. Principal threats are listed alphabetically and expanded on below:

- Climate change;
- Development;
- Disturbance;
- Ignorance;
- Invasive non-native species;
- Land use change and management of land and marine environment;
- Overfishing and Shore gathering;
- Policy conflicts;
- Pollution.

- 4.14. **Climate change**, which is primarily driven by continuing and increasing anthropogenic greenhouse gas emissions, arguably represents the biggest single long term threat to biodiversity both locally and globally. According to the Intergovernmental Panel on Climate Change ("IPCC") the global mean temperature rise averaged over all land and ocean surfaces, was approximately 0.85°C from 1880 to 2012. In the Northern Hemisphere, where most of Earth's land mass is located, the three decades from 1983 to 2012 were likely to have been the warmest 30-year period of the last 1400 years⁸. This rise is reflected in Guernsey which recorded an increase of 0.9°C in the average temperature and a reduction in average annual rainfall of 47.7mm in the ten year period from 2001 to 2010 compared to the long-term average⁹.

Island (Definition adapted from States of Guernsey Environment Department Rural Area Plan, Review No.1, December 2005 p.25).

⁸ IPCC, 2014: Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, R.K. Pachauri and L.A. Meyer (eds.)]. IPCC, Geneva, Switzerland, p.151

⁹ Guernsey Facts and Figures 2014. Policy Council, States of Guernsey

- 4.15. Thermal expansion of the oceans, which has occurred as a direct result of increasing global temperature, together with the melting of glacial ice, has resulted in sea levels rising at an average rate of 1.7 mm per year between 1901 and 2010 and 3.2 mm per year between 1993 and 2010. Increasing temperature and rising sea levels have been linked to extreme weather and climate events which have been observed since about 1950. Impacts from recent climate-related extremes, such as heat waves, droughts, floods, cyclones and wildfires, reveal significant vulnerability and exposure of some ecosystems and many human systems to current climate variability. Locally, sequential storm events, such as those experienced during the winter of 2013-2014 may be linked to climate change. This particular run of storms resulted in the deaths of over 50,000 sea birds (referred to as a “sea bird wreck”) which were washed up on the shores of the Norman-Breton coast, Cornwall and the Channel Islands.
- 4.16. The IPCC states that it is “. . . *virtually certain that there will be more frequent hot and fewer cold temperature extremes over most land areas on daily and seasonal timescales, as global mean surface temperature increases. It is very likely that heat waves will occur with a higher frequency and longer duration*”. The Inter-Governmental Panel also makes the conclusion, amongst others, that climate change is “. . . *projected to increase risks for people, assets, economies and ecosystems, including risks from heat stress, storms and extreme precipitation, inland and coastal flooding, landslides, air pollution, drought, water scarcity, sea level rise and storm surges*”.
- 4.17. Given the scale of climate change on a global basis mitigation at the local level will only be effective if measures are implemented as part of a binding international agreement. In the face of ongoing uncertainty in the extent to which any agreement may be reached adaptation to the effects of local climate change remains the most pragmatic response in terms of measures to protect wildlife and habitat. For example, implementing specific action plans which aim to offset the negative impact of another factor such as managing rat populations to increase the breeding success of seabird species affected by increased and more severe storm events.
- 4.18. **Development** of land for buildings and infrastructure inevitably removes habitat and as a consequence will impact upon species which rely on that habitat. In 2013 11.7% of Guernsey’s land surface was developed (13.7% if greenhouse sites are included) and buildings cover just over 4 square kilometres. It is not the Strategy’s purpose to stop or limit development but it will aim to put the protection and enhancement of biodiversity at the centre of policies relating to planning and development. For example through the provision of information and advice to developers and home owners or the setting of conditions requiring measures to protect and support biodiversity to be implemented.

- 4.19. **Disturbance** takes many forms and can damage habitats and harm wildlife. For example the increase in the types and frequency of outdoor leisure activities may result in habitat erosion and loss, reduced breeding success, especially in sensitive bird species and population displacement and decline from disturbance in feeding grounds. The Strategy would, again, not seek to stop what are enjoyable pursuits but would aim to achieve a balance between the social and health benefits of outdoor leisure and the needs of wildlife.
- 4.20. Our way of life has changed immeasurably in the last hundred years. Living was tied up inextricably with the land on which our ancestors would have worked on a daily basis for their living. Modern high paced lifestyles in an increasingly urban environment, where the majority of people work indoors in offices, has created a disconnect with the natural world. **Ignorance** of the living environment has not been a conscious choice but it is the consequence of the change in the way we live. Nevertheless many people retain an affinity with nature even if they may fear parts of it. The Strategy will contribute to rekindling our awareness, knowledge and understanding of our island's nature. **Greater understanding by the community can help to achieve the goals set by the Strategy in a much more effective and meaningful way.**
- 4.21. **Invasive non-native species** have a range of specific threats which, given sufficient resources, can be managed effectively. However failure to prevent introduction or spread of non-indigenous organisms can prove costly and result in the direct loss of biodiversity. For example Japanese Knotweed has become a familiar plant around the island. Once established this species is difficult and costly to eradicate and smothers out natural flora.
- 4.22. Several other examples of invasive species have established in Guernsey resulting in various outcomes. For example Dutch elm disease (rapid loss of mature tree cover), Carprobrotus fig (smothers out native flora), Parrot feather water milfoil (chokes fresh water habitat), Leathery sea squirt (displaces native marine species) and Japanese strangleweed (outcompetes native seaweed). Many more foreign species have the potential to get introduced and become invasive in Guernsey such as Ramorum blight (kills a range of tree species), Oak processionary moth (rapidly defoliates trees and causes allergic skin rashes), Chalara ash dieback (can wipe out up to 90% of Ash tree populations) and Asian hornet (kills Honey bees).
- 4.23. One argument would say that new species will continually arrive on our shores in any event. Some will establish, some not, while a number will become invasive. The key point is that, due to global trade and transport, new introductions are taking place at many times the natural rate to the extent that natural flora and fauna is unable to adapt and biodiversity is lost. In Europe alone, on average, ten new species become established each year and there is a rising trend for introductions of non native invertebrates and marine fish.¹⁰

10 Non Native Species Secretariat quoting Hulme et al (2009)

- 4.24. The Strategy provides a framework through which invasive non-native species (both established and potential) can be assessed and prioritised so that the most important species are targeted first and action plans to deal with the threats they pose can be drawn up and implemented in the most cost effective way.
- 4.25. **Land use and the management of the terrestrial and marine environments** have a direct and major influence on biodiversity. For example the 2010 Habitat survey identified that 134 hectares (822 verges) of agricultural land had been re-sown or mown regularly in order to extend domestic curtilage. Such a change of use results in land being lost from agricultural management which, in itself, can result in the loss of biodiversity due to the dominance of a very limited number of grass species. Regular mowing maintains the mono-crop of grass which reduces diversity and can result in the loss of higher order species such as Slowworm, Hedgehog and Frog.
- 4.26. Land used for horses has increased in recent years. The 2010 Habitat survey identified for the first time that 234 hectares (1,428 verges) of land is used for “horsiculture”. Although not permanently lost from agriculture the use of land for horses (as well as other livestock) can, if not carefully managed, result in damaged land reducing its biodiversity. *“Good land management practices ensure that soil erosion, run off and pollution do not occur due to horse keeping, and soils are not poached or compacted”*.¹¹
- 4.27. Increasing recreational activity from pursuits such as jet skiing, rock climbing, paragliding, coasteering, shore angling and dog walking has led to increased disturbance and littering.
- 4.28. Growing interest in renewable energy systems, in particular tidal and wave energy, will potentially place greater pressures on the marine environment. Planning law currently extends to the spring low water mark¹² but beyond this any proposals for development and activities which relate to potential development require the permission of the Crown. Looking to the future the marine environment will face growing pressures from human activity.
- 4.29. In recent years, marine spatial planning (MSP) has been the focus of considerable interest, particularly in heavily used marine areas. MSP offers an operational frame work to maintain the value of marine biodiversity while at the same time allowing sustainable use of the economic potential of their oceans. Essentially MSP is an approach that can make key components of ecosystem-based management of marine areas a reality¹³.

11 Managing Land for Horses. A guide to good practice in the Kent Downs Area of Outstanding Natural Beauty

12 Land protected by Planning Law in this context also includes all islands, islets and rocks lying adjacent to the island of Guernsey whether or not they are connected at any state of tide to it. Planning law makes provision by Ordinance to extend controls on development to Herm and Jethou, the territorial waters adjacent to the island of Guernsey, Herm and Jethou and the seabed beneath.

13 Marine Spatial Planning – A step by step approach toward ecosystem based management. Intergovernmental Oceanographic Commission.

- 4.30. An effective Strategy would continually feed into and inform those planning and management processes which shape the development of future policy and legislation. This will help ensure that land and marine use is based on a sustainable ecosystems based approach which will maximise the benefits afforded whilst at the same time conserving biodiversity.
- 4.31. **Overfishing and Shore gathering.** In recent years, there has been a notable increase in the number of people who go shore gathering for Ormers (and other intertidal species). This activity is a traditional pastime but it is thought that due to the commercial demand on the species gathered there has been a significant increase in the number of people taking part. This has led to an increase in the numbers of Ormers, Razor Clams, Lady Crabs and Cockles being taken¹⁴. This is not only potentially detrimental to these stocks, but also leads to significant damage within the shoreline area. There has also been an increase in the number of people who deploy fixed gears (nets and trots) around our shores. This activity is sustainable if carried out responsibly, however inshore netting has also resulted in incidental damage by catch of sea birds and depletion of fish populations.
- 4.32. An effective Strategy should be used as the basis to ensure that activities such as shore gathering can continue on a sustainable basis for future generations of islanders.
- 4.33. Managing potential **policy conflicts** is a necessary part of any Biodiversity Strategy. At the higher level within the States Strategic Plan it is recognised that conflict can occur regarding land use policy where demand for development clashes with the need to retain the island's ecologically integral habitats. It is also important however that the Strategy will be able to identify and manage meso and micro-level policy conflicts; one example being the increase in energy efficiency regulations for buildings, and the consequent reduction in breeding sites for bats and species of birds such as Swifts accustomed to nesting in roof spaces. One solution to this is to install boxes on existing buildings or build carefully designed spaces into new build to provide nest sites. This has been achieved on an ad hoc basis as part of the re-roofing project for Sir Charles Frossard House which was done in 2015. However an effective Strategy would seek to encourage the systematic uptake and application of these type of measures on an island-wide basis through active promotion and applying appropriate levers and incentives to help achieve this.

14 States of Guernsey, Commerce and Employment Stage 1 Consultation Paper: Inshore Fisheries Management within Guernsey's Territorial Waters (0-3nm limit)

- 4.34. **Pollution** can have disastrous and long lasting effects on habitat and wildlife. Major oil pollution incidents such as the Torrey Canyon which ran aground in 1967 spilling its entire load of 119,000 tonnes of crude oil into sea, over 3,000 tonnes of which washed up on Guernsey's beaches, resulted in the death tens of thousands of seabirds and is seared into islander's memories. Marine pollution is regarded as one of the top three risks which might affect the Bailiwick in terms of relative likelihood and relative impact.¹⁵
- 4.35. Many other sources of risk from other forms of pollution also exist such as fuel spillage on land or contamination of the environment by other chemicals. Less high profile but more insidious is the effect of plastic pollution which can cause death or serious injury from ingestion by and entanglement of animals. Once it enters the environment many types of plastic can persist for decades. It has been estimated that plastic in drinks cups could last for 400 years and fishing line up to 600 years.
- 4.36. **It is clear, given the serious declines observed in populations of a significant number of species, allied with loss of habitat and the aforementioned increasing threats to biodiversity, that unless action is taken quickly Guernsey will witness an acceleration in the rate of species extinction and a reduction in biodiversity as a consequence.**

Management of Biodiversity

- 4.37. The Biodiversity Project Group concluded that whilst good work is taking place "on the ground" to support biodiversity, and this is supported in the main by policies in respect of land administered by the States, it falls well short of what is required to halt and reverse the loss of biodiversity. The resources available to meet the challenges posed by the known threats should include:
- An agreed plan of action; "The Strategy" to drive and direct change in an integrated way to achieve defined outcomes;
 - Comprehensive system of monitoring priority species and habitats which would be the subject of Action Plans;
 - An agreed "structure" or body that represents the interested and knowledgeable parties to approve, guide and audit the work of developing and driving a Strategy;
 - Detailed costs for a Strategy and its implementation;
 - A general law to protect wildlife, habitat and countryside.
- 4.38. Whilst there is a significant amount of work being done for conservation "on the ground" no coordinated and strategic approach has been taken on an island wide basis. The Guernsey Biological Records Centre (GBRC) is jointly resourced by the Environment Department and La Société Guernesiate and currently employs one person two days a week. The Centre relies heavily on volunteers to provide

¹⁵ States of Guernsey Bailiwick Risk Register – Civil Contingencies Authority

much of the data and although it fulfils its role as a repository for biological records it does not, at present, have the capacity to monitor populations of target species.

- 4.39. The States does not employ ecologists. Instead Departments such as Commerce and Employment, which has responsibility for agriculture, plant health and sea fisheries and Environment, in its role as land manager, deliver services which are mindful of their environmental impacts. The primary focus of many of these services however is not biodiversity but the service of people, whether for recreation and amenity or the support of land based or marine industries.
- 4.40. The lead NGO which supports and promotes conservation in Guernsey is La Société Guernesiaise. Like many NGOs it relies exclusively on dedicated individuals who volunteer their services in the cause of wildlife and habitat. La Société provides a specialist service, delivering contracted ecology based services to both government and commerce, called Guernsey Environmental Services Limited (Environment Guernsey). Environment Guernsey is a not for profit company wholly owned by La Société Guernesiaise. **Opportunities to work in partnership right across government, commerce and the public not only exist but are seen as essential to take if any strategy is to succeed.**

5. A BIODIVERSITY STRATEGY

- 5.1. The Strategy will, where appropriate, take account of the principles of an Ecosystem Services approach to managing biodiversity. This approach seeks to identify how habitats and species (biodiversity) interrelate with humans. Such an approach recognises the interdependency of living things. The integrated management of land, water and living resources to promote conservation and sustainable use is an underlying element of important international agreements, notably the CBD.

The Framework for a Strategy

- Vision Statement – Aims, objectives and key actions;
- A review of wildlife resource and habitats of the island;
- The threats to the island’s biodiversity;
- A system to assess the relative importance of threats identified and a system to prioritise approaches to their removal or mitigation;
- Identification of priority species and habitats;
- An “Agenda for Action” for Action Plans under the following themes:
 - Conservation;
 - Policy and Legislation;
 - Education;
 - Community Participation;
 - Monitoring and Review.
- Implementation and Accountability.

Measuring Threats and Prioritising Approaches to Mitigation

- 5.2. Not all threats can be dealt with at once and some may not be able to be mitigated at all. A Biodiversity Strategy which seeks to deal with all threats at once and assumes no limit to resources is unrealistic. Threats therefore need to be prioritised according to their significance of impact and likelihood of occurrence (priority of threat), and on the cost effectiveness of the mitigation strategies available (value for money).
- 5.3. By comparing the priorities of the various threats with the value for money (for their mitigation) all threats can be ranked and this can be used to develop a more cohesive and realistic Strategy which takes into account limitations to available resources.

Table 2: Ranking Threats to Biodiversity based on Priority of Threat against Value for Money of Mitigating Threat (1 = highest ranking 8 = lowest)

		Value for money of mitigating threat		
		Good	Medium	Poor
Priority of threat	High	1	2	5
	Medium	3	4	6
	Low	7	8	

Identification of priority species and habitats

- 5.4. The Strategy will identify priority species and habitats using criteria drawn up locally and informed by a number of other sources including International Conventions, global and national conservation status as well as local changes in population, distribution and risk of specific threats.
- 5.5. Priority habitats will be determined based on two principal criteria, namely whether the habitat is deemed to be threatened or has reduced in area over the last century and the extent to which the habitat supports priority species.
- 5.6. The 1995 publication “Biodiversity Strategy for Guernsey – Part 1, Sites, Habitats and Species” noted the need to complement habitat management with a management for individual species, identifying at least 40 red and amber listed species in Guernsey for which Species Action plans were needed. The identification of priority species will be achieved in relation to three main criteria:
- Degree of threat: The extent to which a species has declined or is declining at all scales, regardless of conservation status;
 - Conservation ‘importance’: The status of a species at all scales as defined by its inclusion in the International Union for the Conservation of Nature (IUCN) or Guernsey Red Data Book (in preparation), European listings or its categorisation as an annexed/scheduled species (European

directives, United Kingdom statutes, International Conventions) in need of special protection;

- **Conservation potential:** The ease with which a species can be conserved or recovered based on the approach recommended for prioritising threats to biodiversity in general.

Agenda for Action

5.7. The Biodiversity Strategy will set the framework to enable an “Agenda for Action” to be prepared. This will comprise of a set of Action Plans that, together, will form a prioritised and costed programme to meet set objectives.

5.8. The Agenda for Action will be based on five main themes:

- **Conservation:** This theme includes all those measures aimed at arresting and reversing the decline in biodiversity and would include Species and Habitat Action Plans tailored and targeted at specific sites, particular species, or both;
- **Policy and Legislation:** Current legislative controls to protect wildlife and habitat are regarded as limited and weak and it is proposed that they are reviewed. The formation and development of policies can provide an alternative mechanism to deliver change;
- **Education:** Measures to improve knowledge on and communication of the importance of conservation and biodiversity are regarded as essential to help deliver the aims of any strategy. This principle applies as much to adults as it does to children. An educated population is more likely to not just accept but embrace projects and initiatives which aim to protect and conserve habitats and species. Furthermore an educated population is an engaged population which can support the delivery of Action Plans through volunteering, sharing, networking with others and enthusing others to join in;
- **Community Participation:** Guernsey has a strong history of voluntary support and many initiatives which have been launched in the past have relied heavily on the goodwill and knowledge made available through organisations such as La Société Guernesiaise and the Guernsey Conservation Volunteers. Services such as the Community Environment Projects Scheme working closely with parish Douzaines have provided strong support to various initiatives to improve the environment by working through bodies such as such as Floral Guernsey enables the opportunity to extend these initiatives to projects relating to biodiversity;
- **Monitoring and Review:** No strategy can succeed or be improved without knowing the current status (of a particular species or habitat) and what the end result of deploying an

Action Plan has been. A monitoring and review process is therefore essential to measure the effectiveness of any plan. Currently the Guernsey Biological Records Centre (GBRC) acts as a repository for the records of all biodiversity in Guernsey, including both its terrestrial and marine habitats. To meet the requirements of the Strategy the Centre's role should be developed beyond a simple records centre to include monitoring of key indicator species and habitat.

Implementation

- 5.9. Effective implementation of the Strategy relies on developing and strengthening partnerships between Government, NGOs, business and the public if it is to be successfully delivered. That delivery should be underpinned by an approach based on sound ecological principles which at the same time recognises and balances the needs of the community.
- 5.10. The Environment Department has considered a number of options for implementation including the setting up of a commission. It is the firm belief of the Department that the most effective and cost-efficient approach to delivering a strategy would be to appoint a coordinator. The coordinator would be someone with a sound background in ecology (especially local ecology) and strong communication and people skills. The coordinator could be embedded within the Department or the Guernsey Biological Records Centre (GBRC) whose own role would be extended beyond recording to include monitoring target species as well.
- 5.11. Recognising that there is already a lot of valuable work being done on the ground the coordinating role would take the lead in working with volunteers as well as States Departments and other organisations to help develop and deliver a coherent set of action plans, developed within the framework of the Strategy.
- 5.12. Working in partnership with the wider community will, in itself, contribute to achieving the Strategy's aims. This could be achieved, for example, through the creation of a "Biodiversity Partnership", to create a multiplier effect by increasing capacity and enabling workstreams such as the implementation of ongoing monitoring and survey work of target species and habitat, raising awareness and knowledge, initiating and delivering specific action plans and where appropriate, raising funds to augment any provided through the public purse.
- 5.13. To ensure that the Strategy delivers in the most effective and efficient way and meets its targets the coordinator, whether embedded with the Department or an external agency, would be directly accountable to the Environment Department.

Resourcing a Strategy

- 5.14. It is recognised that in the current financial climate there are limited funds and competing demands. Set against this are the considerable challenges which will need to be faced if Guernsey is to stabilise and reverse the decline in its biodiversity. It is impractical to expect a strategy to work overnight and it is also unrealistic to seek funding to achieve all objectives in one go. Therefore it is proposed to start implementation with a fixed level of resources. Within this resource cap it will be possible to estimate what can be done and the likely timescales for a deliverable programme of action plans once a prioritised programme of Action Plans is identified. The resources required are dependent upon the objectives set, actions and programmes to be completed and the timescales for those programmes. A key first step forward will be the appointment of a coordinating role with a supporting budget and this will require a minimum level of funding.
- 5.15. To determine what a realistic working minimum level of resource would be an analysis of the resources used in Jersey and the Isle of Man was done. Direct comparisons of costs proved difficult to make because individual posts may, in some cases, fulfil a variety of roles. This also extends to supporting budgets which attach to a particular section such as agriculture where, for example, a budget may be used to deliver policy objectives which support both industry productivity and environmental protection.
- 5.16. Table 3 overleaf gives a comparative analysis of staff resource used for the current delivery of services relating to biodiversity and ecology for Jersey, Isle of Man and Guernsey expressed as Full Time Equivalent (FTEs).

Table 3: Comparative analysis of staff resources employed/contracted by Jersey, Isle of Man and Guernsey to deliver services related to ecology / biodiversity

Job type/title (e) Indicates jobs providing “specialist ecology time” ¹⁶	Number of Full time equivalent (FTE)		
	Jersey (2015) ¹⁷	Isle of Man (2014) ¹⁸	Guernsey (2015) ¹⁹
Principal/Senior Ecologists (e)	1	0.9	-
Research Ecologists (e)	0.6	-	-
Zoologists (e)	-	1	-
Natural Environment Officers/Managers (e)	1	0.5	0.8
Natural Environment Officers (Legislation/Designations) (e)	0.6	0.8	-
Natural Environment – Wardens/Countryside Officers/Information	4	1	-
Biodiversity/Biological Records Centre (e)	0.4	0.2	0.4
Marine Officers (e)	0.2	1	0.2
Environment Services Officers	-	-	0.2
Plant Health Inspectors	-	-	0.3
Agriculture and Environment Advisors	-	-	0.1
Crop Protection Officers	-	-	0.1
TOTAL FULL TIME EQUIVALENT (FTE) STAFF	7.8	5.4	2.1
Of which delivered by qualified ecologists/related disciplines (e) - (expressed as FTEs)	3.8 (49% Total FTE)	4.4 (81% Total FTE)	1.4 (67% Total FTE)

5.17. For example table 3 (above) shows that Jersey’s Department of the Environment employ the equivalent of 1.6 full time ecologists together with a number of “Natural Environment Officers” a proportion of which are qualified in ecology or a related discipline. Together with their marine management services (excluding fisheries management/enforcement) and Jersey Biodiversity Centre, Jersey deploys the equivalent of 7.8 Full Time Equivalents (FTEs) of which 3.8 is provided by specialist ecologists (or related disciplines). In the Isle of Man the equivalent of 5.4 FTEs are employed to deliver biodiversity related services of which 4.4 FTEs are specialist ecologists. Both Jersey and Isle of Man have had to rationalise their services in recent years (in the case of the Isle of Man a

¹⁶ Specialist ecology time is defined as the resource employed or contracted in a professional capacity in ecology or a related discipline eg zoology, botany, conservation management etc by someone who is professionally qualified in those disciplines.

¹⁷ Source: States of Jersey Dept. of the Environment

¹⁸ Source: Dept. of Environment, Food and Agriculture, IOM

¹⁹ Source: States of Guernsey Environment Dept. and Commerce and Employment Dept.

50% reduction in their budget since 2010). The data provided is based on services provided following cuts to each island's budgets.

- 5.18. In contrast no specialist ecologists (or equivalent disciplines) are employed directly by the States of Guernsey although some specialist conservation management services are contracted out as part of the land management contracts that the Environment Department administers (recorded in table 3 as 0.8 FTE under "Natural Environment Officer/Manager").
- 5.19. In Guernsey other services relating to biodiversity have, in the past, been provided in addition to core functions. For example the core function of Plant Health is a statutory one which aims to protect horticulture and agriculture from the threat posed by the introduction of non-indigenous pest and diseases. The spinoff benefit of providing this service supports biodiversity through reducing the risk of importing organisms which could negatively affect the environment.
- 5.20. Based on the current capacity and what that delivers locally and by making benchmark comparisons of ecology related service delivery between the three jurisdictions it is clear that Guernsey falls short. This is not to say that Guernsey should attempt to match resource and service provision pound for pound. But it is clear that if the Strategy is to achieve anything the current resource capacity is not capable of delivering the coordinated and targeted approach required to meet the Strategy's intended aims.
- 5.21. Sustainable resourcing should not just rely on government alone but should be broadly based on a strong partnership approach. For example resourcing could come from a wide variety of sources including partnerships with NGOs, universities, staff secondments, internships, businesses and private funding etc. However it is incumbent upon the States, if it wishes to attain the goals of its own strategic plan, that a minimum and sustained level of resource be provided by government.
- 5.22. The Environment Department is of the view that a value for a minimum level of extra resource required to deliver the Biodiversity Strategy would be in the order of £80,000 per annum including labour and non labour costs.

6. **EXTENDING THE CONVENTION ON BIOLOGICAL DIVERSITY TO GUERNSEY**

- 6.1. The CBD is an international environment agreement, established in 1992 at the United Nations Conference on Environment and Development 'The Rio Earth Summit'. 195 countries and the EU are currently Parties to the CBD. The only two countries that are not Parties are the USA and the Holy See, both of which attend as observers.

6.2. The CBD's three objectives are:

- The conservation of biological diversity;
- The sustainable use of components of biological diversity;
- Fair and equitable sharing of the benefits arising out of the utilisation of genetic resources.

6.3. To date the United Kingdom has extended the CBD to five Overseas Territories ("OTs"): the British Virgin Islands, the Cayman Islands, Gibraltar and St Helena, Ascension, Tristan da Cunha and South Georgia and South Sandwich Islands; and two of the Crown Dependencies: Jersey and the Isle of Man. Guernsey now remains the only Crown Dependency not to have had the CBD extended; with the Isle of Man having gained approval in 2012.

What would Extension mean for Guernsey?

6.4. Membership offers a range of benefits in terms of attaining a high level of access to a wealth of specialist knowledge, greater opportunities for dialogues with other Parties, in particular those with similar circumstances and enhanced opportunities to access capacity building initiatives. In light of the Strategy's outlined objectives, this may be of particular pertinence in protecting the islands' marine biodiversity considering the connectivity of marine ecosystems and the salience of transboundary cooperation. The CBD further allows the territory to gain international recognition for its efforts in sustaining biodiversity.

What would Guernsey need to do for the CBD to be extended?

6.5. Article 6 of the CBD text sets out that: Each contracting party shall, in accordance with its particular conditions and capabilities:

- a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programs which shall reflect, inter alia, the measures set out in the CBD relevant to the Contracting Party concerned; and
- b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross sectoral plans, programs and policies.

6.6. For extension to take place a territory must be able to demonstrate a commitment to meet the obligations under the CBD and to work towards achievement of its Strategic Plan, which incorporates 20 global targets (described as the Aichi Targets) to be met by 2020.

6.7. The Aichi Targets are global targets rather than individual targets for each CBD Party. Whilst the targets are not legally binding, an effort is required from Parties to work towards them. The activities of the OTs to which the United

Kingdom ratification has been extended would be part of the United Kingdom's contribution towards meeting the global targets. This means that whilst it wouldn't be expected (for example) for an OT such as the Falkland Islands to rigidly meet the individual percentages assigned for land and marine protected areas, there would be an expectation for there to be a coherent narrative on the activities the Falkland Islands is undertaking to address the Aichi Targets (dependent on the target, naturally the extent of activities undertaken will vary).

- 6.8. The United Kingdom Government has stated that it has no intention of 'assigning' proportions of the Aichi Targets to those OTs and Crown Dependencies to which the CBD has been extended. Their activities in relation to the Aichi Targets will be part of the United Kingdom's contribution towards meeting the Targets.
- 6.9. The activities of the OTs and Crown Dependencies are incorporated as part of the United Kingdom National Report. These reports generally take place every 3 years, with the most recent 5th National Report being submitted to the CBD in March 2014. It is for each individual OT and CD to *proportionately* feed into this reporting process, dependent on their own individual circumstances. However, these reports can be useful way to highlight positive activities work being undertaken by the OTs and CDs.
- 6.10. The CBD and its requirements apply to the United Kingdom and to those OTs and Crown Dependencies to which the CBD has been extended. The Aichi Targets are non-legally-binding, but are a political commitment and as such the United Kingdom Government will seek to honour that commitment.

7. **RECOMMENDATIONS**

- 7.1 The Environment Department recommends the States:
 - a) To endorse the Biodiversity Strategy; included in Appendix 1.
 - b) To agree that the Environment Department progress the Biodiversity Strategy by taking the lead coordinating role in preparing and delivering an Agenda for Action through the formation of a Biodiversity Partnership Group, subject to availability of funding.
 - c) To approve the transfer of £80,000 from the Budget Reserve to the 2016 revenue expenditure of the Environment Department and direct the Treasury and Resources Department to take account of the costs of the Biodiversity Strategy when recommending Cash Limits for the Environment Department for 2017 and subsequent years.

- d) To direct the Environment Department to review existing legislation which protects wildlife and habitat and report back to the States on the statutory mechanisms and measures the Department considers necessary to ensure the long term protection of habitat and the biodiversity it supports.
- e) To place a policy obligation on all government departments and committees to ensure that they take account of the Biodiversity Strategy and to ensure that departmental operations and outputs are, as far as possible, consistent with the aims of the Strategy and wherever relevant and applicable, to take practical steps to protect and enhance biodiversity.
- f) To agree to extend to Guernsey the United Kingdom's ratification of the Convention on Biological Diversity and to work with the Policy Council to take the necessary steps to achieve this.

Yours faithfully

Y Burford
Minister

B L Brehaut
Deputy Minister

P A Harwood
J A Gollop
E G Bebb

Appendix 1



ENVIRONMENT

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT



**SAFEGUARDING
GUERNSEY'S WILDLIFE
A Biodiversity Strategy for Guernsey**



August 2015

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FRONT COVER PHOTOS

1 Top ½ page: Barn owl. Under threat from habitat loss.

2 Bottom ½ page: Oystercatcher. Under threat from declining food sources & disturbance

Executive Summary

A Biodiversity Strategy was commissioned by the Environment Department and prepared in consultation with the Biodiversity Project Group (BPG) in order to provide the means to consider and where necessary, implement conservation legislation and to formalise and structure the Island's commitment to protecting its diverse and treasured natural environment. The Strategy appraises the current state of Guernsey's ecosystems and identifies the principal threats to its native flora and fauna before outlining a framework for the conservation and enhancement of the island's biodiversity. A summary of the Strategy's components is listed below:

The Ecosystem Approach to a Biodiversity Strategy: 1.2.1 Page 9

The Biodiversity Strategy will, where appropriate, take account of the principles of an Ecosystem Services approach to managing biodiversity. This approach acknowledges that humans are an integral element in most ecosystems and attempts to integrate the management of land, water and living resources in a way which maximises the benefits arising from natural resources.

The Elements of a Biodiversity Strategy: 2.3 Page 14

The following elements will form the basis for the Strategy:

- Vision Statement – Aims, objectives and key actions;
- A review of wildlife resource and habitats of the island;
- The threats to the island's biodiversity;
- A system to assess the relative importance of threats identified and a system to prioritise approaches to their removal or mitigation;
- Identification of priority species and habitats;
- An "Agenda for Action" for Action Plans under the following themes:
 - Conservation;
 - Policy & Legislation;
 - Education;
 - Community Participation;
 - Monitoring & Review
- Implementation & Accountability.

Measuring Threats & Prioritising Approaches to Mitigation: 2.3.4 Page 24

The Strategy will first prioritise threats to biodiversity by assessing both the significance of impact and the likelihood of the threat occurring. Threats and their mitigation will be ranked so that limited resources can be used wisely and in the most effective way.

Identification of the priority species and habitats requiring protection:
2.3.5 Page 26

The Strategy will identify priority species and habitats using criteria drawn up locally and informed by a number of other sources including international conventions, global and national conservation status, local changes in population and distribution, and the risk of specific threats.

Agenda for Action: 2.3.6 Page 27

The Biodiversity Strategy will be the framework to enable an “Agenda for Action” to be prepared. This will comprise a set of Action Plans that together, will form a prioritised and costed programme to meet set objectives.

The Agenda will be based on five main themes:

Conservation: To arrest and reverse the decline in biodiversity and would include Species and Habitat Action Plans tailored and targeted at specific sites, particular species, or both.

Policy & Legislation: Review existing legislation and review the need for amended or new laws. Identify and develop suitable policy instruments to help deliver a strategy.

Education: to improve knowledge on and communication of the importance of conservation and biodiversity.

Community Participation: To maintain and further develop the resources of volunteer and community support to help deliver the objectives set.

Monitoring & Review: to measure the effectiveness of a strategy.

A Framework for the Development of Action Plans for Species & Habitat:
2.3.7 Page 30

Species & Habitat Action Plans will be drawn up under the following framework:

Current Status: The reasons for current status. To what extent are the limiting factors known;

Current Factors Causing Loss or Decline: A brief review of the historic and known threats;

Current Action: A resume of what conservation action is presently underway;

Action Plan with Objectives and Targets: To include targets for maintaining or increasing the populations and range (species) or size (habitats).

Driving & Implementing the Strategy – Options: 2.4 Page 32

The Environment Department has considered a number of options for implementation including the setting up of a commission. It is the firm belief of the Department that the most effective and cost-efficient approach to delivering a strategy would be to appoint a coordinator. The coordinator would be someone with a sound background in ecology (especially local ecology) and strong communication and people skills. The coordinator could be embedded within the Department or the Guernsey Biological Records Centre (GBRC) whose own role would be extended beyond recording to include monitoring target species as well.

Convention on Biological Diversity (CBD): 3 Page 33

The commitment to a Biodiversity Strategy for Guernsey should be recognised by extending the Convention on Biological Diversity to the Bailiwick. By doing so not only shows that Guernsey means to play its part globally and will reinforce the actions taken by multiple jurisdictions at a regional level to protect and enhance biodiversity; it also provides a high level of access to a wealth of specialist knowledge, greater opportunities for dialogues with other Parties, in particular those with similar circumstances and enhanced opportunities to access capacity building initiatives.

Resourcing a Strategy: 4 Page 36

The resources required for a Biodiversity Strategy are dependent upon the objectives set, actions and programmes to be completed and the timescales for those programmes. Once a prioritised programme of Action Plans is agreed (Agenda for Action), estimates of costs and human resources against various options can be developed. Alternatively if it is decided to start implementation with a fixed level of resources – because of limited finances and competing demands – it will be possible to estimate what can be done within that resource cap and the likely timescales for a deliverable programme of action plans.

A value to provide a minimum level of extra resource (including value of time above and beyond what is already delivered) is considered to be £80,000 per annum.

1. Introduction

1.1. *What is Biodiversity?*

Biodiversity means the diversity of life. It can be further defined as the totality of genes, species, and ecosystems and includes the variety of life forms found at all levels of biological systems i.e. molecular, organismic, population, species and ecosystem.

1.2. *Why conserve biodiversity?*

The arguments for conserving biodiversity are compelling and are summarised below¹:

Because our survival depends upon it (life support services): Living things, the rocks and soils, water and air interact in a myriad of complex and inter-related ways to provide a range of conditions that favour life on Earth. Removing components from this web-of-life is akin to taking out the rivets from a flying aircraft – it should cause us to worry!

If the ecological systems that support life on Earth collapse or radically change, our very existence is threatened.

Because our economy and lifestyles depend upon it (products and regulation services): Biodiversity underpins the living fabric of our countryside which itself is a crucial component of what makes Guernsey attractive to locals and visitors as well as to those who wish to invest in our island.

Our marine ecosystem is fundamental to supporting a viable fishing industry worth £4 million annually as well as providing us with one of Guernsey's best loved traditional pursuits, ormer gathering.

At the larger ecosystem scale, biodiversity plays a critical role in regulation of the atmosphere, of the water cycle and the nutrient cycles of the soil. From flood control to soil conservation, the global annual contribution of these services runs to many trillions of pounds.

Because to do otherwise is wrong (moral/ethical/philosophical): Many people think it is wrong to let, or worse force, species go extinct and to treat nature as if it has been designed for our convenience and abuse. Conserving nature for the benefit of future generations is seen as important for our continuity.

Because it inspires and enriches our lives (aesthetic/spiritual/cultural services): We are uplifted by nature and our spirit is renewed by contact with it. It provides endless motivation for enquiry, from schoolchildren to scientists.

¹ Adapted from: Conserving Biodiversity – The UK Approach October 2007. Defra on behalf of the UK Biodiversity Partnership

1.3. Why Have a Strategy?

Over time species do become extinct naturally and new species also evolve. However, human activities have caused extinction rates to increase by 100-1,000 times the background rates typical over Earth's history, and these rates are predicted to increase another ten-fold during the 21st century.² Globally twelve per cent of birds, 25% of mammals and 32% of amphibians are threatened with extinction over the next century.³ Guernsey is not immune to this. In the last 100 years 80 species of animal and plant had been lost from the Island mainly as a direct result of habitat destruction and to a lesser extent, changing management regimes.

The "State of Nature" report published in May 2013, by a collective of 25 conservation and research organizations in the UK, has drawn sobering conclusions. Whilst these findings reflect the UK position Guernsey, where similar declines are reported, is faring no better and is subject to similar threats. The State of Nature report has found that:

- 60% of the 3,148 UK species assessed have declined over the last 50 years and 31% have declined strongly.
- Half of the species assessed have shown strong changes in their numbers or range indicating that recent environmental changes are having a dramatic impact on nature. Species with specific habitat requirements seem to be faring worse than generalist species.
- Of more than 6,000 species that have been assessed using modern Red List criteria, more than one in 10 are thought to be under threat of extinction.
- There is a lack of knowledge on the trends of most of the UK's species. As a result quantitative trends are given for only 5% of the 59,000 or so terrestrial and freshwater species and for very few of the 8,500 marine species. Much more needs to be done to improve our knowledge.
- The threats to wildlife are many and varied, the most severe acting either to destroy valuable habitat or degrade the quality and value of what remains.
- Climate change is having an increasing impact on nature. Rising average temperatures are known to be driving a shift in the range of some species, but evidence for harmful impacts is also mounting. **Supporting biodiversity is an integral part of a considered response to climate change and should also be seen as an important form of**

² Rockstrom *et al.*, 2009

³ Millennium Ecosystem Assessment 2005

adaptation, increasing or preserving stocks of natural capital which in turn strengthen the Island's resilience.

If the habitats and species of Guernsey are to be protected now and over the long term a strategy is essential to give direction and impetus to meet and mitigate the threats posed.

1.4 The Ecosystem Approach to a Biodiversity Strategy

An ecosystem can be defined as “a **dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit**”.⁴ Ecosystems and the species and habitats that make them up are natural assets. Natural assets like other assets provide benefits that can enhance economic performance, offer new opportunities for investment and employment, and improve living standards and quality of life. Like other assets enhancing or diminishing the condition of environmental assets increases or reduces the stream of benefits available to future generations.⁵

The benefits provided by ecosystems that contribute to making human life both possible and worth living are described as **ecosystem services**. Treating ecosystems as a service effectively recognises them as fundamental components which underpins social wellbeing, economic prosperity and environmental sustainability. The Principles of the Ecosystem Approach can be found in **Appendix 4**.

However there are limitations to the use of an ecosystem services approach and it should be recognised that this approach does not provide a comprehensive method of conservation. An exclusive reliance on ecosystem services to conserve would not support species that do not hold utilitarian or economic value; ecological processes that do not directly benefit people; and critical ecological functions that may be undermined in attempts to optimize a target service.

Understanding the benefits and limitations of using ecosystem services approaches for achieving biodiversity conservation will help ensure that the finite resources available for biodiversity conservation and sustainable development are used as strategically and effectively as possible to maintain the multiple components of biodiversity and to support human well-being⁶

A basic assessment of ecosystem services can be made by following these five steps:

1. Establish base line – ecosystem value and health

4 Convention on Biological Diversity (CBD) and the Millennium Ecosystem Assessment (MA)

5 Richard Price, Chief Economist DEFRA

6 Applying Ecosystem Services Approaches for Biodiversity Conservation: Benefits and Challenges (2012) Ingram, Redford & Watson

2. Qualitative assessment of policy impacts on ecosystem services
3. Quantitative analysis of impacts on ecosystem services
4. Assess effects on human welfare
5. Value changes to ecosystem services

Fig 1: Inter-relationship between economic prosperity, social wellbeing and environmental sustainability which underpin an integrated approach to a Biodiversity Strategy. An integrated approach comprises of conserving biodiversity as so that it is only used in a sustainable way and the benefits adhered from such use are shared in an equitable manner.



Risk of having / not having a Biodiversity Strategy on Ecosystem Services

The management of risk is increasingly becoming embedded into policy development and implementation. Understanding and managing risk is important when introducing any new strategy and to achieve this it is first necessary to identify & quantify all known risks in terms of their probability and impact.

Table 1(below) provides a qualitative analysis of relative impact on a range of ecosystem services by comparing a do nothing baseline with a fully deployed Biodiversity Strategy. The “do nothing” option assumes no controls are in

place e.g. for fresh water it assumes no controls on pollution or catchment management and for regulation of pest and disease it assumes no border controls for the movement of plants and animals into the island.

Table 1: Summary impact assessment of a Biodiversity Strategy on Ecosystem Services

CATEGORY	DO NOTHING OPTION/BASELINE	DEPLOY STRATEGY
Provisioning services		
Food	-	+/-
Fibre and Fuel	0	0
Genetic resources	--	+
Biochemicals, natural	0	0
Medicines, pharmaceuticals	0	0
Ornamental resources	-	+
Fresh water	--	+
Regulating services		
Air-quality regulation	-	+
Climate regulation	-	+
Water regulation	-	+
Natural hazard regulation	-	+
Pest regulation	--	+
Disease regulation	--	+
Erosion regulation	-	+
Water purification	--	+
Waste treatment	0	0
Pollination	-	+
Cultural services		
Cultural heritage	-	+
Recreation & tourism	-	++
Aesthetic value	-	+
Supporting Services		
Soil formation	-	+
Primary production	--	+/-
Nutrient cycling	-	+
Water cycling	-	+
Photosynthesis	-	0

Score	Assessment of effect
++	Potential significant positive effect
+	Potential positive effect
0	Negligible effect
-	Potential negative effect
--	Potential significant negative effect

1 The Ecosystem Services Approach

The Biodiversity Strategy will, where appropriate, take account of the principles of the ecosystem services approach to managing biodiversity.

2. A Biodiversity Strategy

2.1. Current position

A lot of work has already been done in the past toward the development of a Strategy and a number of components have already been identified and acted upon, for example the setting up of a Biological Records Centre. Following this exercise it is clear that there is already a significant amount of data available and work already done that can be used as the foundation for the strategy. This has been presented in 2.1.1 below as a series of bullet points:

2.1.1. What we already have

- An agreed broad vision that represents a statement of the way we want things to be for the Island's environment including its biodiversity. (States Strategic Plan 2013-2017- see Appendix 1)
- A Strategic Land Use Plan (SLUP) which sets out the spatial framework for Guernsey over a 20 year and which provides general and more specific policy guidance to the Environment Department e.g. Policy SLP30 Requiring the Department (in preparing Development Plans) to provide measures to maintain biodiversity through the protection and enhancement of key habitats and landscapes. See Section 2.2 P.16
- A Draft Island Development Plan published in 2015 which includes proposals to designate areas regarded as important for biodiversity (Areas of Biodiversity Importance – ABIs) and which provides a level of protection from specific activities to Sites of Special Significance (SSSs).
- Two island wide Habitat Surveys (1999 & 2010).
- A Biological Records Centre which holds a comprehensive collection of relevant data that is available to all.
- A Red Data Book (in preparation) which lists species for which there is cause for concern on an island, regional and national basis.
- A preliminary report on a Biodiversity Strategy for Guernsey (1995).
- Large amounts of knowledge held in the community including a number of knowledgeable, amateur societies with interest in specific areas of wildlife and the countryside of the Bailiwick.
- An enthusiastic “natural history society”, La Société Guernesiaise.

- Limited legislation to protect and conserve wildlife and habitats – see Appendix 2.
- Extension of, or signatories to, a number of International Conventions that place some obligations upon us – see Appendix 3.
- A set of Farm & Countryside (Biodiversity) Plans prepared as a part of the Commerce & Employment Department’s integrated milk production, marketing and environment policy.
- A number of “charismatic” sites managed under contract by the Environment Department (including shingle banks, sand dunes, wetlands, reed beds etc).
- A number of sites managed by voluntary groups/societies (eg. La Société, National Trust of Guernsey).
- A designated Ramsar site which includes Lihou Island and surrounding headland and wetland which enjoys international recognition. A proposal for a second Ramsar site comprising Herm, Jethou & The Humps has also been submitted for consideration.
- Numerous bodies, including States Departments, with an interest in biodiversity including experienced staff notably, but not limited to: the Environment Services Unit & Landscape and Countryside Officer of the Environment Department and a client services team at the Commerce & Employment Department with specialisms in plant health fisheries agriculture, plant pathology & legislation.

2.1.2. What has been absent

- An agreed plan of action; in essence a Strategy to drive and direct change in an agreed way to achieve defined outcomes.
- A comprehensive system of monitoring priority species & habitats which would be the subject of Action Plans.
- An agreed “structure” or body that represents the interested and knowledgeable parties to approve and/or guide and/or audit the work of developing and driving a Biodiversity Strategy.
- Full comprehensive costs for a strategy and its implementation.
- A comprehensive wildlife and countryside law (or the equivalent).

2.2. How the Biodiversity Strategy links into the States Strategic Plan (SSP) and the Strategic Land Use Plan (SLUP)

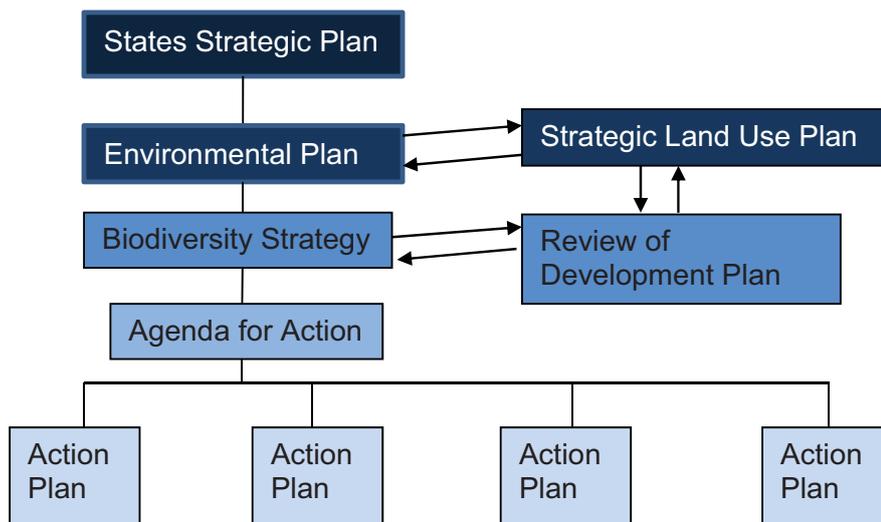
The States of Guernsey Environmental Plan is one of three high level strategic documents that support the States Strategic Plan (SSP). This Plan was prepared with a view to setting the direction for environmental policy and actions over a 20 to 25 year time frame.

Linked into the SSP is the Strategic Land Use Plan (SLUP) which sets out the spatial framework for Guernsey for a 20 year timeframe. It provides both

general guidance and more specific directions to the Environment Department in preparing the Development Plans and exercising its other planning functions in order to achieve the States' agreed economic, social and environmental objectives set out within the SSP. The SLUP is a key instrument in identifying the best way to achieve these States objectives through land use and spatial planning.

The core objective of the SLUP is to improve the quality of life of Islanders and to support a successful economy while protecting the Island's environment, unique cultural identity and rich heritage through spatial planning policies that enable (amongst other things) the protection of local biodiversity and the countryside.

The Biodiversity Strategy will set the framework, approach and direction which will identify the guiding principles and from which an Agenda for Action, comprising a set of aims and objectives, can be drawn up. The Agenda for Action will comprise of a set of prioritised and costed Action Plans and will form the backbone of the Strategy.



2.3. *The Elements of a Biodiversity Strategy*

A recent review of biodiversity strategies from a number of different territories (including Jersey, The Falkland Islands & Northern Ireland) shows that whilst the layouts vary they each contain elements which are common to all.

The **BPG** took the view that the following elements should together, form the basis for a strategy.

2.3.1. Vision Statement – Aims, Objectives & Key Actions

The Strategy has a clearly understood title: “Safeguarding Guernsey’s Wildlife” and includes broad objectives. The overarching purpose is to conserve and enhance biological diversity in Guernsey.

Overall Goal

To conserve and enhance biological diversity in Guernsey using, where appropriate an approach based on ecosystems services.

Aims

- To conserve and enhance key local, regional and internationally important species, habitats and sites;
- To ensure that biodiversity objectives and considerations are integral to all states policy, programmes and action;
- To increase public awareness and encourage communities and individuals to be involved in the conservation of local biodiversity;
- To monitor and review biodiversity in Guernsey;

Key Actions

- Identify, protect and, where necessary, enhance key habitats, species and sites through Action Plans;
- Identify the key threats to biodiversity and introduce Action Plans to mitigate these threats.
- Introduce a monitoring programme for key habitats, species and sites.
- Introduce a community awareness/involvement programme for local biodiversity.
- Review the need for changing existing legislation or the introduction of new laws based on actions plans identified for species and habitat.
- House all the above Key Actions into an “Agenda for Action”

2 Elements of a Strategy

The following elements will form the basis for this strategy.

- Vision Statement – Draft aims, objectives and key actions
- A review of wildlife resource and habitats of the island
- The threats to the island’s biodiversity
- A system to assess the relative importance of threats identified and a system to prioritise approaches to their removal or mitigation
- Identify priority species and habitats
- An “Agenda for Action” for Action Plans under the following headings:
 - Conservation
 - Policy & Legislation
 - Education
 - Community Participation
 - Monitoring & Review
- Implementation & Accountability

2.3.2. Review of Wildlife Resource and Habitats of the Island

A significant amount of work has already been done on the identification and assessment of habitats. Terrestrial habitats have been identified and comprehensively mapped under previous surveys published in 1999 and 2010. Marine habitats have also been partially mapped as part of a Regional Environmental Assessment for marine renewable energy using a towed camera system. However the data is limited and mostly confined to areas around Alderney.

Although we know more about our terrestrial biodiversity than our marine equivalent, which is reflected in the greater management and control of land which is absent in the marine environment, significant gaps exist in our knowledge of both. For example although we know a lot about our terrestrial habitats information on populations of species and their trends, which can give a measure of the health of ecosystems is scant.

Aspects of both terrestrial and marine biodiversity are considered below in more detail with an analysis of how this might influence approaches to the development of strategies for these two very distinct ecosystems.

Terrestrial Biodiversity

Guernsey sits within the North Temperate Zone and has a total area of 6,492 hectares of land (including Herm and Lihou) plus an intertidal zone of 1,240 hectares. Being part of a set of islands which are the furthest south in the British Isles Guernsey has a different set of species from most of the UK with some species that are not found in the UK. The terrestrial species found are effectively a subset of those in North West France.

A total of 42 different phase 1 habitats⁷ have been identified in the 2010 Habitat Survey. The island is characterised by a matrix of cliffs, with plateaus at about 100 metres above sea level together with sand dune and coastal grassland areas around the remainder of the coast. Guernsey has important areas of wetland habitat ranging from reed beds to unimproved marshy grassland with a very rich flora and fauna. One habitat, dune heath, appears to have been lost from the islands since the 1999 survey was conducted.

Excluding marine and intertidal areas, the 1996 UCL Baseline Study of Guernsey identified nine general terrestrial habitats of significance:

- Wet grassland
- Running water (douits and streams) and standing water (freshwater)
- Other wetlands (marshes, reed-swamps and fen)
- Woodland
- Boundaries (hedgerows, dry grassland banks and stone walls)
- Cliffs (including maritime heath) and rocky shores
- Coastal lagoons and brackish habitats
- Dunes, dune-slacks and shingle-banks

The BPG have recommended the addition of undisturbed or infrequently disturbed natural and semi-natural grasslands to the 1996 list of “terrestrial habitats of significance”. In particular unimproved and semi improved dry and coastal grasslands. These grasslands are very diverse and can be considered the local equivalent of tropical rainforests.

Although these types of grassland habitats are more abundant than the nine listed habitats above they are under considerable threat from wide scale changes in their use and management.

Over 13,000 species of plants, animals and fungi have been recorded from the Channel Islands (not counting single celled organisms such as algae). Some species hold cultural significance as they are named after the islands such as Guernsey vole, Guernsey centaur and Guernsey elm.

Significant areas of the island have been recognized as Sites of Nature Conservation Importance⁸ (SNCIs) because of the important ecological

⁷ Using the classification system published by the Nature Conservancy Council in 1990 and reprinted with minor revisions by the Joint Nature Conservation Committee

⁸ Described as Sites of Conservation Interest in the Urban Area Plan

habitats they provide but they currently have little legal protection other than by policy under Planning Law.

With 40% of Guernsey's land surface (38,600 vergées) classed as available to agriculture, including farming practices and rural land management techniques is an essential part of any strategy to conserve biodiversity. The Guernsey Countryside management scheme was implemented in 2001 to address this and underwent revision in 2009. Under the scheme the Commerce and Employment Department has developed farm biodiversity action plans in conjunction with dairy farmers in the island, and there is potential to extend these to other farming enterprises and landowners, such as large areas of land devoted to 'horsiculture'. Through working with farmers there is the potential to promote 'land sharing' whereby utilising the land for its economic value is acknowledged to not necessarily be at odds with conserving biodiversity, and techniques are promoted which adhere to the 'integrated approach' outlined in Figure 1.

Successfully incorporating agricultural land uses into the Biodiversity Strategy will also facilitate increased connectivity between habitats for terrestrial species, rather than fragmented and increasingly isolated pockets of land, which are unable to support the same range of species and make populations within these areas highly vulnerable to local changes. Furthermore in relation to agriculture it should also be noted that the Guernsey Cow is itself an example of an important species which plays a pivotal role in agro-ecosystems as well as forming a key part of the Islands cultural heritage.

Guernsey is a relatively densely populated island with 13% of its area developed⁹. The remainder of the land is, in general, highly managed including a high proportion of farmland. The island's affluence is reflected by high car ownership levels, strong demand for development and leisure activities which all have an impact on the natural environment.



Juvenile Kestrels

© Paul Hillion



Golden-eyed Wolf Lichen © Family of Charles David

⁹ Source: Environment Department



Speckled Wood Butterfly

© Martin Gavet



Linnet

© Rod Ferbrache

Marine Biodiversity

The marine ecology of the Bailiwick is rich and diverse. Guernsey's geographic location and large tidal differences create and support a diverse range of habitats. The convergence of cold (boreal) and warm (Lusitanian) bio-geographic regions support an array of species which include rich plankton "rivers" which flow eastward from the Atlantic to the North sea. Guernsey has an exceptionally large tidal range, up to 10m in the south of the Island where the inter-tidal zone is particularly large and bio diverse.

Several habitats regarded as a priority for conservation may be found around the islands including Eelgrass beds (which provide spawning grounds for species such as Sea bass and Black sea bream), Maerl beds and tidal rapids. The coastlines and islets of Guernsey, Herm and Sark provide the breeding sites for thirteen species of seabird, regarded as important indicator species for the health of marine ecosystems. Certain species such as Lesser Black-Backed Gull hold international importance because local populations represent a significant proportion of the regional populations.

Marine mammals such as Grey seal are also found on the Humps and various whale and dolphin species have also been recorded in Bailiwick waters.



Sea slug

© Michelle Hooper



Minke Whale

© Vic Froome



Atlantic Puffin

© Paul Hillion

Northern Fulmar

© Michelle Hooper

Three main elements make up the biological marine environment are:

- Sea bed - (Benthic zone)
- Open seas – (Pelagic zone)
- Intertidal zone

Many species are adapted to living in one specific habitat. Whereas others utilise more than one, e.g. shore and wading birds which may use more than one habitat for nesting and feeding.

A healthy benthic ecosystem is important to support shell fish and flat fish populations. Pelagic systems support a wide range of fish and mammal populations. Healthy and well managed intertidal areas are essential to support mariculture and Ormer gathering which is part of a firmly established tradition of shore gathering in the island.

Up until relatively recent times humanity's impact on the marine environment has been minimal compared to our impact on land. Concern has grown in recent years however over the impact of overfishing, disturbance, more intensive shore gathering, pollution, spread of invasive non-natives and the potential impacts of offshore development.

Globally fishing provides an important source of protein as well as underpinning an industry (worth £4 million in Guernsey in 2012) which is wholly reliant on a healthy marine ecosystem.

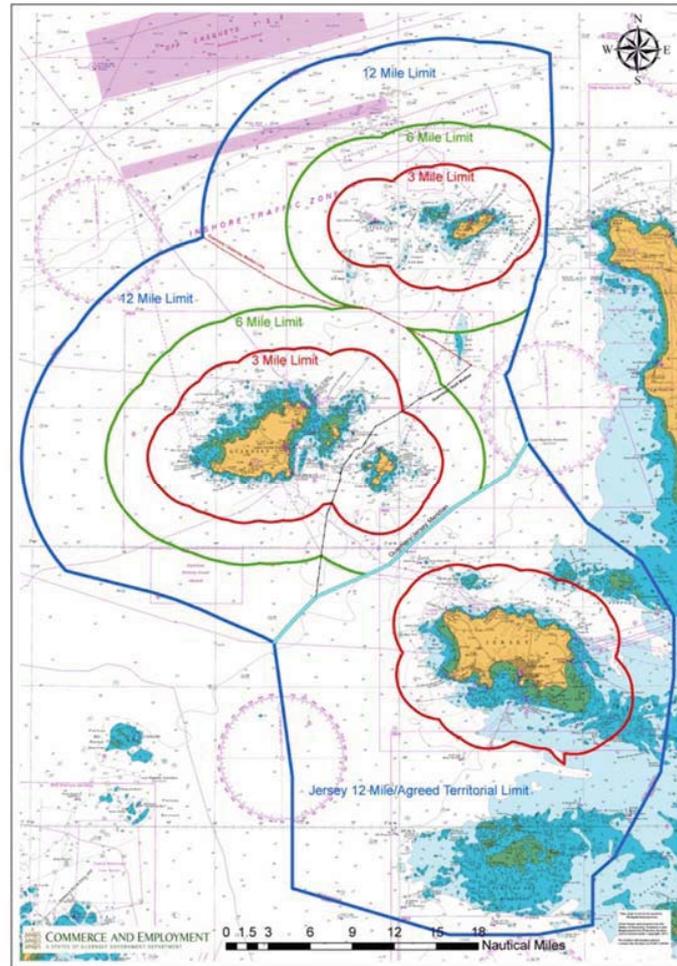


Fig 2: Three, six and 12 mile limits for Guernsey, Alderney & Jersey

There are elements of a Biodiversity Strategy which are common to both the terrestrial and marine environments. However three main factors distinguish marine from terrestrial environments when considering strategies for protection:

- Connectivity & Interdependency
- Relative paucity of data on ecosystems compared to terrestrial systems
- Absence of legal or policy frameworks which seek to conserve & enhance marine biodiversity

Whilst soil and air connect up terrestrial habitats water, moved by oceanic currents and tidal flow, is the universal connector for all marine ecosystems. This contributes a degree of robustness to marine ecosystems by connecting up populations of the same species but at the same time makes it a system vulnerable to pollution which occurs elsewhere.

The general approach for developing a biodiversity strategy for the marine environment will be similar to that for a strategy for terrestrial areas. That is

identifying what there is, assessing and ranking threats then implementing actions to mitigate those threats.

However, recognising that there are distinct features and factors which characterise the marine environment, the strategy will aim to be compatible with and integrate into a Bailiwick wide approach and be consistent with any regional and national workstreams which impact upon Guernsey's marine environment.

Principles which support a marine strategy

- Cross boundary sharing of knowledge and data
- Inter-island, regional & national co-operation as well as intra-island cooperation between Departments, agencies, non-government organisations and others

These principles will be applied to help achieve the following aims:

- Conservation & management of fish stocks
- Development of legal and policy frameworks to control development
- Minimising risks of pollution to the minimum
- Ensuring the future of shore gathering
- Protection against marine invasives
- Marine Spatial Planning (MSP) & Integrated Coastal Zone Management (ICZM)

Currently planning law applies to land only in Guernsey which includes the foreshore to the mean low water mark and any land reclaimed from the sea¹⁰. Few controls are placed on the use of the marine environment in general apart from controls over shipping (preventing pollution), smaller craft (eg leisure craft and speed limit zones) and fishing which is controlled out to a 12 mile limit.

In March 2013 the European Union (EU) released a draft Directive entitled "Establishing a Framework for Maritime Spatial Planning (MSP) and Integrated Coastal Zone Management (ICZM)". The draft sets out the EU's objective to become a smart, sustainable and inclusive economy by 2020 with a focus on developing the "Blue Economy". The report recognises that the increased use of coastal and maritime areas as well as the effects of climate change, natural hazards and erosion also put pressure on coastal and marine resources.

MSPs will map existing human activities and identify their most effective future spatial development, while ICZM strategies ensure the integrated

¹⁰ Land protected by Planning Law in this context also includes all islands, islets and rocks lying adjacent to the island of Guernsey whether or not they are connected at any state of tide to it. Planning law makes provision by Ordinance to extend controls on development to Herm & Jethou, the territorial waters adjacent to the island of Guernsey, Herm & Jethou and the seabed beneath.

management

of these human activities. Applied jointly, they both improve sea-land interface planning and management.

The key point to note is the Directive would require member states to engage with bordering member states and third countries. The Channel Islands are clearly in the middle of such discussions between the UK and France and will be regarded as third parties. The development of any Biodiversity Strategy for the marine environment will take into account any discussions and any outcomes from those discussions. Any Strategy will also feed into and inform any processes which may lead to the development of MSP and ICZM in the Bailiwick.

The benefits of MSP/ICZM include reduced conflicts between sectors, encouraging investment and critically, protection of the environment through early identification of impacts on and opportunities for, multiple use of space. However if the protection of marine ecosystem is to be achieved it is vital that a Biodiversity Strategy identifies the key components of that ecosystem and identifies the key actions required to protect them.

2.3.3. Threats to the Island's Biodiversity

The threats to Guernsey's biodiversity are many and varied. Several threats are already well known such as climate change and changes to management of the land. The Strategy will identify the key threats and the extent to which they will affect biodiversity both now and in the future.

In the report entitled "A Biodiversity Strategy for Guernsey – Part 1, Sites, Habitats and Species" (1995) it states that 80 species of animal and plant have been lost from the Island in the last 100 years – the majority being lost as a direct result of habitat destruction on the Island, and to a lesser extent, changing management regimes. These threats are current, ongoing and increasing.

Some such as climate change are locally beyond our control whilst others have emerged as a consequence of population growth which has led to a loss of habitat resulting from development. Changes in the management of remaining habitats had led to loss of biodiversity from lack of management of marginal land and intensification of remaining farm or amenity land all of which have contributed to marked reductions in floral and invertebrate biodiversity and creating so called "Green deserts".

Establishment of invasive species (for example *Carpobrotus* fig, Japanese knotweed and German ivy) can out compete native flora and reduce the habitat available to support other native species. On the horizon there are new threats such as Chalara ash dieback, Oak processionary moth and Asian hornet which should be considered as candidates for inclusion in an Agenda for Action for dealing with invasives.

Disturbance is another threat which is on the increase due, in part, as a result of the upward trend in leisure activities especially around the coast.

Urbanisation has had significant impacts on habitat both from development of greenfield sites especially prior to the 1990s when greater controls were introduced and urban intensification of already developed areas e.g. (paving, tarmacking and paving over of front gardens or parts of gardens within already developed areas). Reducing disturbance is also of mutual benefit and can avoid further potential conflicts between conservation and development. An example of this can be seen in the relatively recent prevalence of Herring Gull's nesting in urban and sub-urban areas in Jersey any many other parts of the region due to persistent disturbance of their historic nesting sites.

Perhaps the two most important threats, identified in other strategies, are firstly a lack of awareness amongst individuals and organisations about the importance of biodiversity and how it can be conserved, and secondly uncertainty in and lack of information. In particular the effects of climate change, data on marine and coastal ecosystems, lower orders of plants and the diversity and ecological role of microorganisms especially in soils.

The Strategy will identify and assess all these threats using mechanisms that prioritise the threats so that limited resources can be used wisely – see 2.3.4 below, “Measuring Threats & Prioritising Approaches to Mitigation”.

The following is a summary list of threats to biodiversity which are expanded on in the Policy Letter on Biodiversity.

- Climate change
- Development
- Disturbance
- Ignorance
- Invasive non-native species
- Land use change and management of land and marine environment
- Overfishing & Shore gathering
- Policy conflicts
- Pollution

A comprehensive list of threats, specific to particular habitat groups, is given in Appendix 6 of this Strategy.

2.3.4. Measuring Threats & Prioritising Approaches to Mitigation

Not all threats can be dealt with at once and some may not be able to be mitigated at all. A Biodiversity Strategy which seeks to deal with all threats in one go and assumes no limit to resources is unrealistic. Resources are limited so threats need to be assessed, prioritised according to their importance and ranked based on the cost effectiveness of the mitigation strategies available.

Using a modification of the model developed for the Biodiversity Strategy for the Falkland Islands a system to measure the risk of a threat and its impact is proposed. Table 2 below illustrates a method of prioritising threats so, for example a threat to biodiversity which would have major impact and a high likelihood of happening would be given a high priority. Arguably climate change falls into this category as does (again arguably) the introduction of new pests, diseases or weeds. Pollution of the sea can have a major impact but arguably, with the advent of International Conventions and policing now has a lower risk of occurring.

Table 2 - Determining the priority of a threat based on its likelihood & impact

Likelihood of threat occurring	Significance of impact		
	Major	Medium	Minor
High risk			
Medium risk			
Low risk			

Priority level	
	High
	Medium
	Low

Once threats have been prioritised the costs of mitigating those threats can be identified and compared against the impact of mitigation to determine value for money – see Table 3 below.

Using the examples above the mitigation of climate change is likely to have a very high cost and be limited in impact (carbon emissions to date have locked in another 50 years of global warming even if we stop emitting CO2 today). Resources used on attempting to mitigate climate change would therefore represent poor value for money.

Table 3 - Assessing Value for Money – comparing impact of mitigation with cost

Cost of Mitigating Threat	Impact of Mitigating Threat		
	Major	Medium	Minor
£££			
££			
£			

Value for Money	
	Good
	Medium
	Poor

By comparison action to prevent the introduction of a new pest, disease or weed is likely to be cheaper and give a better return on the effort and resource

expended. This is an example of an action with a medium to good value for money, based on the premise that prevention is cheaper than cure. For example inspection and import controls are cheaper than the combined cost of eradication and damage which would have been caused. A comparative example is Asian Longhorn Beetle, a new pest of trees which has so far been kept out through diligent plant health controls and Japanese Knotweed (a deliberate introduction made in the 19th century) which is now proving to be a costly problem on some sites requiring extensive treatments to eradicate the plant.

By comparing the priorities of the various threats with the value for money (for their mitigation) all threats can be ranked and this can be used to develop a more cohesive and realistic strategy because it takes account of the available resources.

Table 4 - Ranking Threats based on Priority of Threat against Value for Money of Mitigating Threat (1 = highest ranking 8 = lowest)

		Value for money of mitigating threats		
		Good	Medium	Poor
Priority of threat	High	1	2	5
	Medium	3	4	6
	Low	7	8	

3 Prioritising Threats & Effective Use of Limited Resources

The Biodiversity Strategy will first prioritise threats to biodiversity by assessing both the significance of impact and the likelihood of the threat occurring. Value for money of mitigating each threat will be determined by measuring the impact of mitigation against its cost. Threats and their mitigation may then be ranked so that limited resources can be used wisely and in the most effective way.

2.3.5. Identification of the priority species and habitats requiring protection

The Biodiversity Strategy for Guernsey will identify priority species and habitats using criteria drawn up locally and informed by a number of other sources including international conventions, global and national conservation status, changes in population and distribution, and the impact of specific threats.

The 1995 publication “Biodiversity Strategy for Guernsey – Part 1, Sites, Habitats and Species” provides a framework to develop Species and Habitat Action Plans. Criteria for habitat and species are considered separately below:

Identifying Priority Habitats

To identify priority habitats it was recommended the following two principal criteria are used:

- Threatened or have reduced in area over the last century;
- Supporting priority species

Identifying Priority Species

Species will be prioritised using the following two principal criteria:

- Degree of threat: the extent to which a species has declined, or is declining at all scales, regardless of conservation status;
- Conservation ‘importance’: the status of a species at all scales as defined by its inclusion in the International Union for the Conservation of Nature (IUCN) or Guernsey Red Data Book (in preparation), European listings or its categorisation as an annexed/scheduled species (European directives, UK statutes, International Conventions) in need of special protection.

A third criterion – conservation potential (the ease with which a species can be conserved or recovered) – is also recommended to further select species for specific conservation action. This effectively represents a “value for money” approach and accords with the approach recommended to prioritising threats to biodiversity in general in section 2.3.4 above.

The 1995 report concluded that whilst habitat management should remain the main focus of conservation efforts in the short term, in some cases it was more appropriate to complement this approach with management plans for individual species. It was noted that there were at least 40 red and amber list species in Guernsey for which Species Action Plans were needed if the populations of these species were to be maintained or increased e.g. Puffin and Oystercatcher.

4 Identifying Priority Species & Habitats

The Biodiversity Strategy for Guernsey will identify priority species and habitats using criteria drawn up locally and informed by a number of other sources including International Conventions, global and national conservation status, changes in population and distribution, and the risk of specific threats.

2.3.6. Agenda for Action

An “Agenda for Action” is proposed which would be based on five principal themes as listed below. Each theme would set out the desired outcomes and

the actions required to achieve those outcomes to meet the vision and goals as set out in section 2.3.1 above.

The themes are not listed in any particular order of importance but aim to show the range of approaches that can be taken to protect and enhance the island's biodiversity. The themes are not separate from each other, rather they are interlinked so, for example, an Action Plan to support a species of bat could be delivered by a specific Action (Conservation) which involves a programme to raise awareness (Education) and would need monitoring (Monitoring & Review) using the help of volunteers (Community participation).

Theme1: Conservation

Conservation includes all those measures aimed at arresting and reversing the decline in biodiversity and would include **Species and Habitat Action Plans** tailored and targeted at specific sites or particular species or both. Each plan would contain specific measures which would aim to conserve species and habitats.

Theme 2: Policy & legislation

Current legislative controls to protect wildlife and habitat are regarded as limited and weak and it is proposed that they are reviewed. More details are given under Section 2.5 Legislation.

Changes to existing legislation or the introduction of new legislation are generally time consuming to prepare and can take a long time to introduce. The formation and development of policies can provide alternative mechanism to deliver change. One example of this is a suggestion that the States adopts a policy of protecting and enhancing biodiversity as part of its capital programme of works to refurbish existing buildings in its portfolio as well as new builds. Installing bird and bat boxes could be done for a cost which would be a very small fraction of the cost of works.

Theme 3: Education

Measures to improve knowledge on and communication of the importance of conservation and biodiversity are regarded as essential to help deliver the aims of any strategy. This principle applies as much to adults as it does to children.

An educated population is more likely to not just accept but to embrace projects and initiatives which aim to protect and conserve habitats and species. Furthermore an educated population is an engaged population which can support the delivery of Action Plans through volunteering, sharing, networking with others and enthusing others to join in.

Theme 4: Community participation

Biodiversity Strategies from other jurisdictions underline the importance of volunteer and community support to help deliver the objectives set. Guernsey

has a strong history of voluntary support and many initiatives which have been launched in the past have relied heavily on the good will and knowledge made available through organisations such as La Société Guernesiaise.

Many of the projects delivered on the ground have benefitted from the resources offered by organisations such as La Société Guernesiaise, Guernsey Conservation Volunteers and initiatives such as the Community Environment Projects Scheme and the Community Service Offenders Scheme.

Parish Douzaines have provided strong support to various initiatives including Britain in Bloom through Floral Guernsey and the opportunity exists to extend this to projects relating to biodiversity.

Work teams offered by various businesses which have a policy of corporate social responsibility can provide assistance for both the delivery of conservation projects, as well as providing resource to monitor particular species, habitat or the success of a particular initiative.

The Biodiversity Strategy would seek to maintain and further develop these partnerships to help resource a cost effective delivery of any Action Plans.

Theme 5: Monitoring & review

No strategy can succeed or be improved without knowing the current status (of a particular species or habitat) and what the end result of an Action Plan has been. A monitoring and review process is therefore essential to measure the effectiveness of any plan. Section 2.4 below gives more details on how the Strategy will be implemented.

Currently the Guernsey Biological Records Centre (GBRC) acts as a repository for the records of all biodiversity in Guernsey, including both its terrestrial and marine habitats. To meet the requirements of the Strategy the Centre's role should be developed beyond a simple records centre to include monitoring of key indicator species and habitat.

5 Agenda for Action

The Biodiversity Strategy will form the basis for an “Agenda for Action” to comprise a set of Action Plans that, together, will form a prioritised and costed programme to meet set objectives.

The Agenda will be based on five main themes:

Conservation: to arrest and reverse the decline in biodiversity and would include Species and Habitat Action Plans tailored and targeted at specific sites or particular species or both.

Policy & Legislation: Review existing legislation to identify the need for new laws. Identify and develop suitable policy instruments to help deliver a strategy.

Education: to improve knowledge on and communication of the importance of conservation and biodiversity.

Community Participation: To maintain and further develop the resources of volunteer and community support to help deliver the objectives set.

Monitoring & Review: to measure the effectiveness of a strategy.

2.3.7. A Framework for the Development of Action Plans for Species & Habitat¹¹

The following elements will be included in a framework for Species & Habitat Action Plans:

- **Current Status:** The reasons for current status. To what extent are the limiting factors known.
- **Current Factors Causing Loss or Decline:** A brief review of the historic and known threats.
- **Current Action:** A résumé of what conservation action is presently underway.

¹¹ Adapted From Volume 1 of *Biodiversity: The UK Steering Group Report*

- Action Plan Objectives and Targets: Targets for maintaining or increasing the populations and range (species) or size (habitats).
- Proposed Action: Actions needed to support the targets under the following categories:
 - Safeguarding the site and its management;
 - Species management and protection;
 - Advisory;
 - Future research and monitoring;
 - Communications and publicity
 - Policy and legislation

Drawing on the analysis of risk and value for money the Strategy can focus on:

- Action Plans for rarer habitats outlining the threats to each habitat;
- Actions that the States will support to lessen the risks to the habitat;
- Species which can be monitored to assess the health of the habitat;
- Other measures that will be undertaken to stop the contraction of the habitat and if possible to reverse or extend it.

The Strategy will also develop plans for those threatened species which are not bound to a particular habitat, such as birds and marine species that forage over a wide area and those that need a range of habitats to survive.

6 Framework for Species & Habitat Action Plans

Species & Habitat Action Plans should be drawn up under the following framework:

- **Current Status:** The reasons for current status. To what extent are the limiting factors known.
- **Current Factors Causing Loss or Decline:** A brief review of the historic and known threats.
- **Current Action:** A résumé of what conservation action is presently underway.
- **Action Plan with Objectives and Targets:** To include targets for maintaining or increasing the populations and range (species) or size (habitats).

2.4. Driving & Implementing the Strategy

Effective implementation of the Strategy relies on developing and strengthening partnerships between Government, NGOs, business and the public if it is to be successfully delivered. That delivery should be underpinned by an approach based on sound ecological principles which at the same time recognises and balances the needs of the community.

The Environment Department believes that the most cost effective approach to delivering a strategy would be to appoint a coordinator. The coordinator would be someone with a sound background in ecology (especially local ecology) and have strong communication and people skills. The coordinator could be embedded within the Department or the Guernsey Biological Records Centre (GBRC) which would have its role extended beyond recording to include monitoring target species and habitats as well.

Working in partnership with the wider community will, in itself, contribute to achieving the Strategy's aims. This could be achieved, for example, through the creation of a "Biodiversity Partnership", to create a multiplier effect by increasing capacity and enabling workstreams such as the implementation of ongoing monitoring and survey work of target species and habitat, raising awareness and knowledge, initiating and delivering specific action plans and where appropriate, raising funds to augment any provided through the public purse.

To ensure that the Strategy delivers in the most effective and efficient way and meets the targets it is set the coordinator, whether embedded with the Department or an external agency, would be directly accountable to the Environment Department.

7 Implementing the Biodiversity Strategy

It is proposed that a coordinator, with a sound background in ecology (especially local ecology), strong communication and people skills, is appointed to deliver the Strategy. Key to effective implementation is the development of a partnership approach to delivery and the coordinator would play a principal role in achieving this. The coordinator could be embedded within the Environment Department or the Guernsey Biological Records Centre (GBRC) whose own role, in any event, would be extended beyond recording to include monitoring target species and habitats as well.

2.5. Legislation

Limited local legislation is in place to protect wild birds and wild flowers. The current planning laws contain enabling powers which allow for the control of development on land and there is also provision in the main Planning Law to

designate Sites of Special Significance (**SSSs**) to protect areas that are particularly rich in biodiversity.

However, it should be recognised that Planning Laws in general are limited in their protection of biodiversity since they only seek to control development as defined in law. There are currently no comprehensive and over-arching laws which specifically seek to protect wildlife or habitat in the Bailiwick.

Until now the need for legislation has been tempered by the fact that a large proportion of publicly accessible and managed land is in public ownership or owned by organisations that are well disposed toward the protection of the natural environment. This has often been backed by specific management policies which seek to enhance biodiversity.

In the short term the development and implementation of a Biodiversity Strategy provides the best way forward to achieving the goals of conserving and enhancing biodiversity. It is recognised that a very significant amount of resource would be required to develop and draft what would be a large piece of legislation that may well take several years to come to fruition. The Strategy will achieve more in the short term but as part of an ongoing strategy it is recommended that a comprehensive review be done of current legislation and its impact on biodiversity. The review process would be used to identify any gaps in current protection and to highlight areas where introducing a legal framework would provide significant benefits.

3. Convention on Biological Diversity (CBD)

The Convention on Biological Diversity (CBD) is an international environment agreement, established in 1992 at the United Nations Conference on Environment and Development 'The Rio Earth Summit'. 195 countries and the EU are currently Parties to the CBD. The only two countries that are not Parties are the USA and the Holy See, both of which attend as observers.

The Conventions three objectives are:

- The conservation of biological diversity;
- The sustainable use of components of biological diversity;
- Fair and equitable sharing of the benefits arising out of the utilisation of genetic resources.

3.1. *What would Extension mean for Guernsey?*

Membership offers a range of benefits in terms of attaining a high level of access to a wealth of specialist knowledge, greater opportunities for dialogues with other Parties, in particular those with similar circumstances and enhanced opportunities to access capacity building initiatives. In light of the Strategy's outlined objectives, this may be of particular pertinence in protecting the islands' marine biodiversity considering the connectivity of marine ecosystems and the salience of transboundary cooperation. The

Convention further allows a territory to gain international recognition for its efforts in sustaining biodiversity.

3.2. What would Guernsey need to do for the CBD to be extended?

For extension to take place a territory must be able to demonstrate its commitment to meet the obligations under the CBD and to work towards achievement of its Strategic Plan, which incorporates 20 global targets to be met by 2020.

Article 6 of the Convention text sets out that: Each contracting party shall, in accordance with its particular conditions and capabilities:

- a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programs which shall reflect, inter alia, the measures set out in the Convention relevant to the Contracting Party concerned; and
- b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross sectoral plans, programs and policies.

3.3. Summary of Commitments

Once a territory has had the CBD extended to them they need to work towards a set of strategic goals, including the following:

- Write and implement a workable **Biodiversity Strategy and Action Plan. (Aichi Target 17)**
- Carry out **baseline studies** or a **biodiversity data audit** to ensure the territory knows the abundance and distribution of existing biodiversity.
- **Identify and address threats to biodiversity**, primarily habitat loss, climate change, invasive alien species and pollution.
- **Data-sharing**: ensuring evidence-based policies and decisions.
- **Spread the knowledge**: educate about the value of local biodiversity and its sustainable use;
- **Government must lead on Biodiversity**: respect biodiversity and ecosystem services in policy and decision-making;
- **Incentivise conservation** and encourage sustainable use of biodiversity and natural resources.
- **Protection** of habitats and species, ecosystem services and genetic diversity

- **Sustainable use of biodiversity:** support biodiversity objectives and preserve ecosystem services.

Aichi Target 17

By 2015 each Party has developed, adopted as a policy instrument, and has commenced implementing an effective, participatory and updated national biodiversity strategy and action plan.

Nagoya protocol

The Nagoya protocol is a supplementary agreement and forms part of the Convention on Biological Diversity. The protocol governs the access to and sharing of benefits derived from local genetic material through its requirement that genetic resources derived from the biodiversity from a territory should be used appropriately. Any benefits a company derives from the use of genetic material must be shared equitably with the territory, whether this is for medicinal, horticultural or industrial application. For example this could include locally distinctive genetic breeds such as the Guernsey cow and Golden Guernsey goat.

The Nagoya protocol requires separate ratification and the UK is currently in the process of ratifying the protocol which is due to come into force in the UK in autumn 2015 (to be confirmed). Any extension of CBD will not automatically include an extension of the protocol and it is the intention of the UK to gauge interest from individual Crown Dependencies and Overseas Territories to gauge their interest in having the Nagoya Protocol extended and investigate ways of doing this.

3.4. Conclusions

Ecosystems are interdependent on a global scale. Whatever the extent and impact of humanity's actions to protect and enhance those ecosystems they can only ever be delivered at the local level. That makes any contribution Guernsey can make to protecting biodiversity as valuable as that made by any other community

By committing to a Biodiversity Strategy Guernsey can show it is committed to protecting biodiversity. If this is the case then that commitment should be recognised by extending the Convention on Biological Diversity. By doing so shows that Guernsey means to play its part globally and will reinforce the actions taken at a regional level to protect and enhance biodiversity.

7 Convention on Biological Diversity

By committing to a Biodiversity Strategy it demonstrates that Guernsey is committed to protecting biodiversity. Extending the Convention on Biological Diversity would show that Guernsey intends to play its part globally and will reinforce the actions taken at a regional level to protect and enhance biodiversity.

4. Resourcing a Strategy

The resources required for a Biodiversity Strategy are dependent upon the objectives set, actions and programmes to be completed and the timescales for those programmes. Once a prioritised programme of Action Plans is agreed (Agenda for Action), estimates of costs and human resources against various options can be developed. It is proposed to start implementation with a fixed level of resources. Within this resource cap it will be possible to estimate what can be done and the likely timescales for a deliverable programme of action plans once a prioritised programme of Action Plans is identified.

A minimum level of extra resource required is considered to be in the order of £80,000 per annum including labour and non labour costs. A significant proportion of this amount would go toward the employment of, or contracting in of, a coordinator.

Sustainable resourcing should not just rely on the States alone but should be broadly based on a strong partnership approach. As well as monitoring/survey work there will also be a need to promote to and engage with the community as a whole to both raise awareness and knowledge and to work in partnership with volunteers and NGOs as well as parish Douzaines to help meet set objectives including the implementation of action plans and monitoring the effectiveness of such plans.

In conclusion a range of specialist inputs including the disciplines of ecology, land management, botany, zoology, education and communication will be required. Other skills will also be required for encouraging community participation such as leadership & networking skills and fund raising for specific projects or initiatives.

Measuring success – Monitoring & Assessment

Baseline and subsequent data comparisons vary greatly in cost depending on what it is being done. For example marine surveys to assess population distribution of species will cost much more than simple point photography of a terrestrial habitat. What needs measuring and monitoring will be determined by the Agenda for Action so, at this stage, it is not possible to quantify costs in any detail.

Investigating extension of CBD

The elements of this work include drafting communications with the Law Officers, preparing submission, consultation/verification time, publicity and follow up.

Legislation

Estimating the cost of the drafting and implementation of any new and specific protection laws is difficult to make. However a realistic timescale for the drafting and consultation process together with submission to the States for a comprehensive wildlife, countryside and marine protection law could be 5 – 10 years in the gestation.

5. Timetable for Development, Implementation & Review (Past, Current & Future)

July 2012	Biodiversity Project Group (BPG) set up
Autumn 2012	Background Data Gathering Review of information.
Summer 2013	Identify & agree principal elements which form the Strategy which include the main issues, challenges and opportunities.
Winter 2013/14	Draft Biodiversity Strategy Based on the principles agreed by BPG submit this strategy for approval to the Board
Sept-Oct 2014	Consultation on Approved Draft Strategy.
August 2015	Approve final version & Draft Policy Letter
Nov 2015	Strategy submitted to the States
Jan 2016	Prepare Agenda for Action to achieve short & longer term objectives Begin Implementation of Biodiversity Strategy subject to availability of resource
Spring 2016	Prepare the groundwork to enable extension of the Convention on Biological Diversity to the Bailiwick of Guernsey
2017	1st Annual Review of Strategy

2018	3rd Habitat Survey
2021	Comprehensive quinquennial review of Strategy

Appendix 1: States Strategic Plan – Environmental policy elements 26th March 2013 Billet V and VI

Statement of Aims

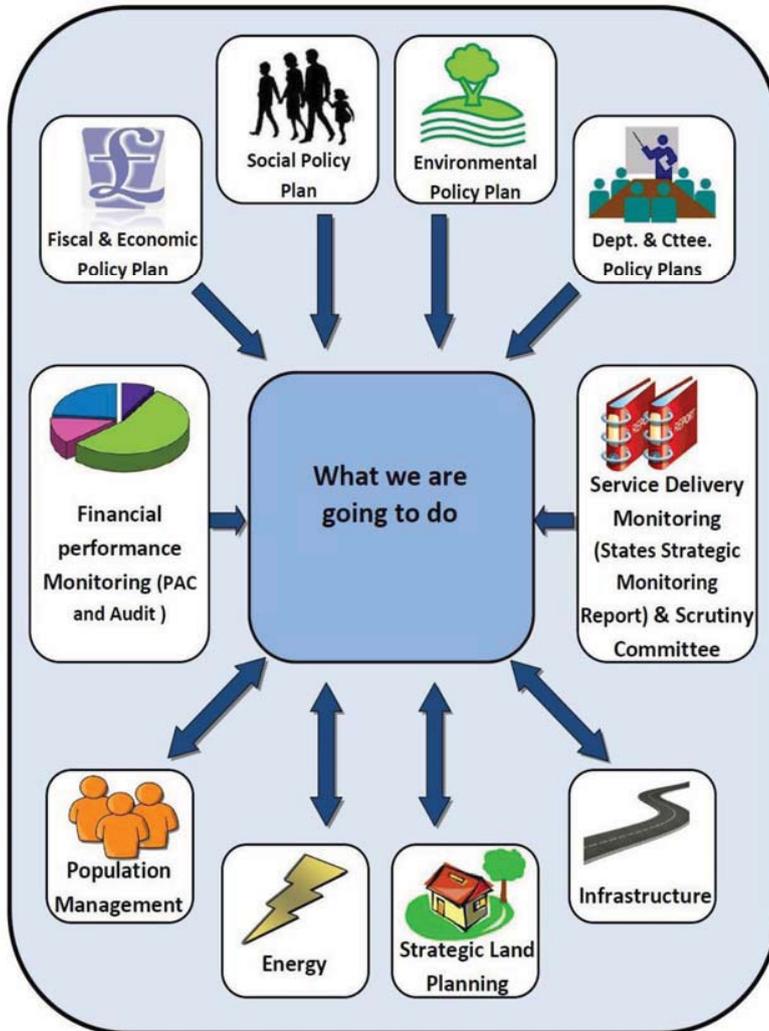
The government of Guernsey aims to protect and improve:

- The quality of life of Islanders.
- The Island's economic future.
- The Island's environment, unique cultural identity and rich heritage.

It recognises that this requires:

- Maintenance and enhancement of Guernsey's standing in the global community.
- Sustainable economic growth and effective public services without increasing population to the detriment of our environment and way of life.
- Conditions that encourage enterprise and successful business.
- Wise long-term management of Island resources including the maintenance of a highly skilled and well-educated workforce.
- Efficient transport and communication systems, including digital connectivity.
- Good governance and public engagement.
- Co-ordinated and cost-effective delivery of public services through cooperative working and transformation change management.
- Improved awareness of the culture and identity of Guernsey both internally (within the Island) and externally
- All people having opportunities and support where needed, to enable them to reach their full potential.
- Policies which protect the natural environment and its biodiversity by accounting for the wider impacts that human activity has on it.

The States Strategic Plan A Family of Related Plans



Executive Summary

The States of Guernsey Environmental Plan is one of three high level strategic documents that support the States Strategic Plan (SSP). This Plan was prepared with a view to setting the direction for environmental policy and actions over a 20 to 25 year time frame. The purpose of the plan is to provide the direction and framework under which an environment that is sustainable, biologically diverse and protective of Guernsey's traditional culture and values can be delivered.

The Environment Department have set objectives to deliver the Environmental Plan

by setting policies and policy decisions that are consistent with the SSP and actions being demonstrable of working towards those objectives. As an employer the Department have stated that they will, amongst their staff, promote education on environmental issues and require Non-Governmental

Organisations to do likewise. They will require that environmental audit and consideration are given the same prominence as financial audit and corporate governance. They will adopt green procurement policies and environmentally supportive practices and procedures.

OUTCOMES INDICATORS

- | | |
|---|--|
| <p>1 The States of Guernsey will provide clear leadership through education, information and action on environmental issues and challenges</p> | <p>Adoption and application of accredited Environmental Management Systems. Action plans will be regularly reviewed and incrementally progress the objectives set out in this plan</p> |
| <p>2 The States will demonstrate delivery of its environmental priorities</p> | <p>Sustainable Guernsey reporting
Ecological footprint</p> |

Biodiversity, Countryside, Marine and Coastal Protection

The natural development of our planet and the evolution of species, and hence habitats dictate that ecosystems will develop and change. Whilst some species will survive and thrive, others will be lost and replaced by genetically “fitter” additions. Man is part of these ecosystems, not ruler of them, and it should not be our function to fight the plans of “mother nature”. However, man’s intervention in terms of land take and especially in respect of climate change impacts has been so severe that we have a duty to correct the pace of change and to support species and habitats giving them the time needed to adapt and evolve. Global biodiversity is being lost at an alarming pace and this biodiversity loss is reflected in Guernsey. Some of our native species are suffering due to fragmentation of habitats and the loss of salt marshes, soft coastal defences, unimproved land and wetlands. In addition, several species that are threatened are visitors to our shores, taking on food and resting before continuing their annual journey.

Guernsey’s natural biodiversity is perhaps more evident and prevalent in the marine environment. This is particularly so within the intertidal zone where, to date, man’s intervention has been largely restricted to replacing natural coastal defences with hard boulder, and concrete defences, along with some reclamation. Conversely the countryside that Guernsey cherishes and the biodiversity it supports is, in the main, a managed countryside. It is recognised, therefore, that the policies and actions set out in this chapter are not restricted to solely protecting indigenous species. They are also intended to deliver a rich biodiversity whilst at the same time supporting the appearance, character and traditions that make up our countryside and marine heritage.

OUTCOMES INDICATORS

- Our biodiversity will be healthier
- Specific species and habitats requiring targeted action will have been identified and supported
- Our farming and countryside heritage will retain its distinctive character

Appendix 2: Existing Legislation which relates in whole or in part to the protection of the natural environment

Planning

The Land Planning & Development (Guernsey) Law, 2005 and which came into force on 6th April 2009. The law has changed the way most planning applications are dealt with, and requires EIAs for important projects. The law also allows for the designation of Sites of Special Significance (**SSSs**).

Coast and beaches

Ordonnance relative au depot de carrière sur les Côtes, 1932

The Coast Protection Ordinance, 1949

The Foreshore (Riding and Driving) Ordinance, 1951

The Control of Dogs Ordinance, 1992

The Boats and Vessels (Speed Limits, etc) Ordinance, 1970

Land

The Places of Recreation Ordinance, 1975. Helps control such activities as mountain biking on cliff paths.

Places of Recreation (Amendment) Ordinance, 1996

La Loi Relative aux Douits 1928

The Environmental Pollution (Guernsey) Law, 2004

Fauna

The Protection of Wild Birds Ordinance, 1949 (as amended)

The Control of Birds Ordinance, 1985. (Only certain species of game birds and a few 'pest' species may be shot.)

Flora

The Wild Plants Protection Ordinance, 1950. (Prohibits the sale of wild plants without the permission of the Environment Department.)

The Cutting of Hedges Ordinance, 1953 (Covers the mandatory cutting of roadside hedges and the cleaning of controlled streams twice yearly.)

The Noxious Weeds (Guernsey) Law. 1952 as amended by The Noxious Weeds (Amendment) Ordinance, 2001 (It is illegal for landowners to allow certain species of plants to flower and set seed. Currently these are: Ragwort, Senecio jacobaea, Hemlock Water Dropwort, Oenanthe crocata, and the thistles Cirsium vulgare and Cirsium arvense.)

Trees

The Land Planning & Development (Guernsey) Law, 2005. Enables the protection of trees and woodland by the application of Tree Protection Orders (TPOs)

Import/export

The Import and Export (Control) (Guernsey) Law, 1946

Marine environment

Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, 1976

Convention on the Dumping of Wastes at Sea, 1976

Convention for the Protection of Marine Pollution by Land-Based Sources, 1978

The Dumping at Sea Act 1974 (Guernsey) Order 1975

The Food and Environment Protection Act 1985 (Guernsey) Order 1987

The Merchant Shipping (Oil Pollution) Act 1971 (Guernsey) Order, 1981

The Oil in Navigable Waters (Guernsey) Order 1966

The Fishing (Bailiwick of Guernsey) Law 1989 – some protection to ormers, size limits etc for certain species

Boats and Vessels Speed Limits 1970.

Waste & Water

The Refuse Disposal Ordinance, 1959

The Sewerage (Guernsey) Law, 1974

The Water Byelaws (Guernsey) Ordinance, 2003 (made under the Loi ayant rapport à la Fourniture d'Eau par les États de cette Île aux Habitants de la dite Île" 1927)¹²

¹² New legislation pending under Environmental Pollution (Guernsey) Law, 2004, Part VI - Water Pollution

Appendix 3: *International Conventions – signed up or extended and those that are not*

International obligations relevant to nature conservation

The following International agreements have been extended to the Bailiwick.

Convention on International Trade in Endangered Species of Wild Fauna and Flora ~ CITES

Marine Pollution Conventions.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.

Convention on Environmental Impact in a Transboundary Context.

UN Framework Convention on Climatic Change.

Montreal Protocol on Substances that Deplete the Ozone Layer.

Convention on the Conservation of Migratory Species of Wild Animals. ~ The Bonn Convention. effective in 1985, with the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA) extended and effective from January 1999 and the Eurobats Agreement extended and effective from June 1999. The Agreement on the Conservation of Cetaceans of the Black & Mediterranean Seas (ASCOBANS) was extended in 1993.

Convention on Wetlands of International Importance especially as Waterfowl Habitat - The 'Ramsar Convention'

The following international agreements and directives have not been extended to the Bailiwick.

Convention on Biological Diversity ~ The Rio Convention.

Convention on the Conservation of European Wildlife and Natural Habitats ~ the Berne Convention

European Council Directive on the Conservation of Wild Birds.

Appendix 4: 12 principles of the ecosystem approach

Adopted by The Conference Of The Parties to the Convention On Biological Diversity at its 5th Meeting, Nairobi, May 2000

1. The objectives of management of land, water and living resources are a matter of societal choice.
2. Management should be decentralised to the lowest appropriate level.
3. Ecosystem managers should consider the effects (actual or potential) of their activities on adjacent and other ecosystems.
4. Recognising potential gains from management; there is usually a need to understand and manage the ecosystem in an economic context. Any such ecosystem-management programme should:
5. Reduce those market distortions that adversely affect biological diversity; Align incentives to promote biodiversity conservation and sustainable use; Internalise costs and benefits in the given ecosystem to the extent feasible.
6. Conservation of ecosystem structure and functioning, in order to maintain ecosystem services, should be a priority target of the Ecosystem Approach.
7. Ecosystems must be managed within the limits of their functioning.
8. The Ecosystem Approach should be undertaken at the appropriate spatial and temporal scales.
9. Recognising the varying temporal scales and lag-effects that characterise ecosystem processes, objectives for ecosystem management should be set for the long term. Management must recognise that change is inevitable.
10. The Ecosystem Approach should seek the appropriate balance between, and integration of, conservation and use of biological diversity.
11. The Ecosystem Approach should consider all forms of relevant information, including scientific and indigenous and local knowledge, innovations and practices.
12. The Ecosystem Approach should involve all relevant sectors of society and scientific disciplines.

The services that are provided can be classified into the following groups:

Supporting services

Ecosystem services that are necessary for the production of all other ecosystem services. For example:

- soil formation
- nutrient cycling
- water cycling
- primary production

Provisioning services

The products obtained from ecosystems. For example,

- food
- fibre
- fresh water
- genetic resources

Cultural services

The non-material benefits people obtain from ecosystems. For example, through:

- spiritual or religious enrichment
- cultural heritage
- recreation and tourism
- aesthetic experience

Regulating services

The benefits obtained from the regulation of ecosystem processes. For example:

- climate regulation
- hazard regulation
- noise regulation
- pollination
- disease and pest regulation
- regulation of water, air and soil quality

Appendix 5: Summary of findings from 2010 Habitat Survey

A Habitat Survey of Guernsey, Herm & Jethou was conducted in spring and summer 2010 and by comparing with the previous 1999 survey has indicated the following changes:

- An increase in woodland on Guernsey from 216ha to 379ha. 60ha (366v) have changed classification following the succession of Dense Scrub to semi-natural Broadleaved Woodland, and 51ha (311v) have been planted with broadleaved trees; the States of Guernsey Rural Tree Planting Scheme is largely responsible for this.
- Scrub on Guernsey has increased from 234ha (1,428v) to 314ha (1,916v). This is following the abandonment of marginal land and the spread of scrub along the cliffs, the scrub replacing species-rich grasslands and heath.
- Semi-Improved Grassland has decreased by 45% (a loss of 160ha (976v), mainly due to the more strict classification definitions as opposed to their having been a marked increase in fertilizer use or ploughing of the land. However, this does mean that the previous data illustrating the proportion of Semi-improved Grassland were over-estimates, and so the abundance of semi-natural land is much lower than previously thought.
- The abundance of other, rarer habitats, has also decreased, especially species-rich dry grasslands contributing to an overall decline in Guernsey's biodiversity.
- Many of these changes are caused by differences in land-management practices in the island over the last 100 years due to the changing economic circumstances.
- 134ha (822v) of agricultural land which has been re-seeded or mown in order to extend domestic curtilage has been identified. This land is currently lost from use as farmland.
- Land used for horses has been recorded for the first time as 234ha (1,428v). Generally horses are not employed in the agricultural industry, so this land is currently lost from farming use

Appendix 5 (continued)

Summary Table of the change in the habitats located on Guernsey and Lihou between the 1999 and 2010. Where % of land refers to the proportion of Guernsey's and Lihou's total terrestrial land area (6, 359ha) (38,802v)

Habitat Classification	1999		2010		Change in Area	Change in % of GSY's land
	Area (ha)	% of land	Area (ha)	% of land		
Semi Natural						
Broadleaved Woodland	131.38	2.07	197.58	3.11	66.20	1.04
Planted Broadleaved Woodland (+orchards)	56.17	0.88	120.92	1.90	64.75	1.02
Planted Coniferous Woodland	20.93	0.33	26.05	0.41	5.12	0.08
Planted Mixed Woodland	8.44	0.13	34.88	0.55	26.44	0.42
Parkland	19.54	0.31	55.94	0.88	36.40	0.57
Dense Scrub	234.53	3.69	314.74	4.95	80.21	1.26
Unimproved Grassland	3.11	0.05	2.05	0.03	-1.05	-0.02
Semi-improved Grassland	351.81	5.53	192.30	3.02	-159.51	-2.51
	1531.3		1138.0			
Improved Grassland	5	24.08	8	17.90	-393.26	-6.18
Marshy Grassland	90.74	1.43	60.95	0.96	-29.79	-0.47
Continuous Bracken	103.63	1.63	101.42	1.59	-2.21	-0.03
Tall Ruderal	54.10	0.85	32.05	0.50	-22.05	-0.35
Swamp	14.54	0.23	15.24	0.24	0.70	0.01
Standing Water (+Brackish)	41.62	0.65	50.26	0.79	8.64	0.14
Saltmarsh	0.45	0.01	1.55	0.02	1.10	0.02
Shingle	13.45	0.21	16.31	0.26	2.86	0.04
Rock	15.97	0.25	11.99	0.19	-3.98	-0.06
Dune Slack	2.86	0.05	0.47	0.01	-2.39	-0.04
Dune Grassland	74.29	1.17	84.36	1.33	10.08	0.16
Dune Heath	1.27	0.02	0.00	0.00	-1.27	-0.02
Dune Scrub	27.28	0.43	27.37	0.43	0.09	0.00
Open Dune	1.29	0.02	1.36	0.02	0.07	0.00
Hard Cliff	27.57	0.43	58.50	0.92	30.93	0.49
Soft Cliff	5.02	0.08	2.57	0.04	-2.45	-0.04
Coastal Grassland	61.60	0.97	74.03	1.16	12.43	0.20
Quarry	23.22	0.37	5.83	0.09	-17.39	-0.27
Coastal Heathland	2.70	0.04	1.57	0.02	-1.12	-0.02
Arable Land (+ley)	388.81	6.11	888.29	13.97	499.48	7.86
Amenity Grassland	564.74	8.88	687.18	10.81	122.44	1.93
Bare Ground	47.39	0.75	41.48	0.65	-5.90	-0.09
Sand / Mud	0.00	0.00	4.25	0.07	4.25	0.07
Hottentot Fig	0.00	0.00	4.13	0.07	4.13	0.07
Brownfield	0.00	0.00	32.33	0.51	32.33	0.51
Marginal Vegetation	0.00	0.00	0.66	0.01	0.66	0.01
Total	3919	61.64	4287	67.42	475.03	5.77

Appendix 6: Threats to Biodiversity specific to major habitat groups

Threats to Marine Biodiversity

- Over-fishing – needs controls to prevent collapse of fish stocks
- Damaging types of fishing –e.g. pair-trawlers & scallop-dredgers – effect not just fish, but marine mammals, diverse habitats such as maerl beds
- Noise pollution – effect on marine animals e.g. cetaceans
- Chemical pollution – wide range of effects
- Coastal & offshore development
- Dredging
- Climate change:
 - loss of cooler-water species leading to wholesale changes in marine food-webs
 - loss of birds at the southern edge of their range e.g. puffins

Threats to Foreshore, cliff & headland Biodiversity

- Development
- Rock-armouring
- Chemical pollution
- Dogs and people disturbing birds (e.g. dog-walking, coasteering, hang-gliding in important feeding and breeding areas for birds at critical times)
- Motorbike scrambling and 4x4 vehicles on beaches damaging wildlife on the rocks as well as disturbing birds
- Sand-racing and ploughing competitions compacting sand and damaging sand dwelling wildlife
- Uncontrolled exploitation of shell-fish (a newly emerging threat to species such as razor shells)
- Stone-turning without replacement during ormering
- Excessive and/or extensive bait-digging
- Climate change:
 - sea level rise will affect all beaches;
 - cooler-water species will die off
 - possible problems with invasive non-natives

Threats to Terrestrial Biodiversity

- Development, especially on highly-diverse or scarce habitats
- Building
- Tarmacking/concreting
- Land-raising (often carried out to gain income from tipping/ avoid tipping charges)
- Tipping
- Drainage - loss of wetlands

- Intensive agriculture- wide range of effects
- Loss of traditional management:
- Lack of grazing – loss of important, diverse habitats & associated wildlife & effects on range of other species – loss of food sources, nesting sites & materials – much of these areas have become unmanaged scrub or poorly managed grassland that are mown either too much or too late
- Lack of traditional arable practices- loss of weed flowers & seeds
- Lack of scrub management – loss of diverse structure
- Recreational uses where they:
 - involve using fertilisers, pesticides & herbicides; and/or
 - take over parts of valuable habitats and reduce their diversity
- Over-management, e.g. mowing grassland as lawns, extension of curtilage
- Tree-planting on unimproved or semi-improved grassland
- Clearing or weed-killing of species-rich walls or re-pointing with cement-mortar
- Climate change leading to:
- The spread of invasive non-natives e.g. Hottentot Fig, but more are emerging all the time, such as Pampas Grass, emerging possibilities include Gazania, Bermuda Buttercup, Fuchsia, Dimorphotheca

Appendix 7: *An example of Statutory Duty on UK & Northern Ireland Public Authorities to conserve Biodiversity*

In the UK various statutes have been introduced by the devolved administrations which place a statutory duty upon all government departments and public bodies to further the conservation of biological diversity when carrying out their functions

In the places a general statutory duty upon all government departments and public bodies to further the conservation of biological diversity when carrying out their functions. The Biodiversity Duty applies to all government departments and public bodies, including non-departmental public bodies and local authorities.

One outcome of that review is the decision to place a statutory duty upon public bodies to conserve biodiversity and to underpin the key mechanisms established. This statutory duty is contained in the Wildlife and Natural Environment Act (Northern Ireland) 2011.

The Biodiversity Duty – What does it Mean?

The conservation of biodiversity is an essential part of the Government's commitment to sustainable development contained in the Sustainable Development Strategy launched on 9 May 2006. The new biodiversity duty further demonstrates the Northern Ireland Executive's commitment to biodiversity conservation and is consistent with EU aims to halt biodiversity loss.

The biodiversity duty extends beyond current legislative requirements for protected sites and species and requires all public bodies to further biodiversity in ways that are consistent with carrying out their main functions. The duty does not require public bodies to go over and beyond their existing duties e.g. duplicating the work of the NIEA. However, as public bodies carry out their main functions, there is now a requirement for them to protect and maintain biodiversity on their own lands and those they have influence over; and to look for opportunities to enhance or restore biodiversity, or provide an educational input to others about biodiversity. The duty also extends to all activities carried out by a public body including undertaking regulatory function and the provision of grant aid to other bodies and/or individuals where there is a relevance to biodiversity. There is much that can be achieved without incurring significant additional costs that can minimise damage, conserve existing features and enhance other features.

In meeting this statutory duty, public bodies must take account of the Northern Ireland Biodiversity Strategy published by the Northern Ireland Executive; the lists of priority species and habitats published and maintained by NIEA; and The lists of species and habitats published as a result of the Wildlife and Natural Environment Act (Northern Ireland) 2011.

Extracted from Guidance Notes prepared by the Northern Ireland Executive

Who is This Guidance For?

This guidance document has been developed to assist government departments, non-departmental public bodies and local authorities meet their statutory duty. It aims to assist public bodies through their work in developing policies and strategies and carrying out their functions; administering the planning system; managing publicly owned land and buildings; developing infrastructure; engaging with business and the public; conducting research and managing information; making decisions about procurement; and implementing economic, environmental and social programmes.

How Does the Guidance Work?

Many public bodies do not yet see biodiversity conservation and promotion as an important part of their function even though the work of every public body impacts biodiversity to a greater or lesser degree. The guidance outlines the requirements and benefits of incorporating biodiversity into service delivery. Through the use of a range of examples from Northern Ireland and further afield, the guidance aims to assist public bodies identify ways in which they can meet their statutory duty while continuing to deliver their core activities. The guidance does not, however, provide a definitive interpretation of legislation or provide exhaustive recommendations for conserving biodiversity. It is intended to review the guidance from time to time to ensure that it reflects new thinking and or/ideas and continues to meet the needs of public bodies.

The Role of Public Bodies

Public Bodies have a key role to play. The new biodiversity duty means that public bodies can no longer say that biodiversity issues are not part of their responsibilities. While some departments or business units within departments may need to take only very broad, general actions on biodiversity when carrying out their functions, others will need to be more specific to ensure that biodiversity actions are thoroughly incorporated into work areas. Most importantly, this means not impacting negatively on any area that is rich in biodiversity, whether or not it is subject to a designation. It is about ensuring that where important habitats and species are present on lands owned or managed by public bodies, appropriate management practice is in place to protect and maintain them. Positive activities for biodiversity may also include restoring or enhancing a species of flora or fauna, or restoring or enhancing the habitat affected by the work that a public body carries out. By incorporating biodiversity conservation into service delivery, public bodies will not only be fulfilling the requirement to deliver the objectives, actions and targets in the Northern Ireland Executive's Programme for Government, they will also be setting an important example to the private sector.

IMPLEMENTING THE BIODIVERSITY DUTY IN PUBLIC BODIES

The introduction of the statutory biodiversity duty means that public bodies are required to identify appropriate measures relating to biodiversity conservation. The recommendations below aim to assist public bodies with implementation. They are not exhaustive and should be read in conjunction with the public bodies' own interpretation of its statutory requirements under the duty.

Statutory Compliance

Public bodies need to be aware of current national and international biodiversity legislation, policies and strategies and also keep abreast of any changes to national (and UK) biodiversity conservation policy to ensure that their ongoing performance is relevant to current legislation and guidance and avoids the risk of non-compliance. To help achieve compliance, public bodies should:

identify appropriate opportunities to implement all relevant statutory duties and powers relating to biodiversity conservation.

include mechanisms for scrutiny of the delivery of biodiversity conservation objectives in assessment of performance in relation to best value.

Commitment to Conserving Biodiversity

Public bodies should identify an individual at a high level within their organisation to be responsible and accountable for and to oversee implementation of the biodiversity duty in relation to all of the organisation's activities. This individual or "Biodiversity Champion" would have responsibility for ensuring:

detailed planning is delegated to business areas to enable development of an overarching biodiversity implementation plan (see template at Annex 4) for the organisation with clear objectives related to the organisation's functions; biodiversity conservation is incorporated into the development of new strategies and policies; a review is undertaken of all existing policies and strategies to ensure they are consistent with the biodiversity duty; and good communication to promote cultural change within the organisation towards protecting biodiversity and encouraging all staff to "think biodiversity" across all duties and functions.

This does not always have to be at increased cost to the organisation as improvements in biodiversity can often be achieved by introducing changes to how things are currently being delivered rather than by implementing new or additional projects.

Key Aspects of Biodiversity

For all public bodies there are five key aspects of biodiversity that need to be taken into account. These are:

Protecting Biodiversity by ensuring that any operation undertaken on the public body's own lands, or those it has influence over, includes a requirement to protect biodiversity from removal, damage, and disturbance consistent with

the body's main functions. For all new projects or programmes, protection of existing biodiversity must be taken into account as part of the initial appraisal and appropriate action incorporated into BIPs. Existing projects and programmes should be reviewed to establish their impact on biodiversity and appropriate action taken to mitigate adverse impact which should also be recorded in the BIP.

Maintaining Biodiversity by ensuring that any operation undertaken on lands owned or managed by the public body includes a requirement to maintain biodiversity, e.g. maintaining water levels, appropriate grazing or cutting regimes, removing invasive alien species, or avoiding over-fertilisation. Land management practices should be reviewed regularly to ensure that they are appropriate to maintain existing biodiversity. Actions to be taken should be incorporated into the BIP.

Enhancing Biodiversity, where possible, by seeking opportunities to enhance biodiversity on the public bodies own lands or property as they deliver their functions. This could include for example, planting native broadleaves, converting amenity grassland to wildflower meadow, provision of bat boxes and other homes for wildlife, creating new ponds and wetlands etc. Actions taken should be incorporated into the BIP.

Restoring Biodiversity by undertaking actions that restore former natural biodiversity previously lost from a site within the public body's ownership or influence, e.g. restoration of woodlands, wetlands or hedgerows; reintroduction of species such as grey partridge, or extending existing habitats for priority species. Actions taken should be incorporated into the BIP.

Raising Awareness of Biodiversity and Its Importance both within and outside the organisation. All public bodies have a role to play in raising awareness of biodiversity both within and outside their organisations. In doing so, public bodies can help further the cause of biodiversity conservation specifically and environmental issues more generally. This can often be taken forward in conjunction with other public, private, community and charitable sector interests and action taken should be incorporated into the BIP.

Planning for Biodiversity Conservation to clearly demonstrate how the statutory biodiversity duty is being met, public bodies should include delivery of biodiversity conservation in their business planning process with actions and targets that can be easily monitored. This may require management of conflicting priorities and co-operation by different business units within the organisation and with other public bodies where appropriate. Actions and targets should be recorded in a BIP and the progress and effectiveness of these should be monitored and evaluated on at least annually.

Appendix 8: Aichi Biodiversity Targets¹³

Strategic Goal A: Address the underlying causes of biodiversity loss by mainstreaming biodiversity across government and society



Target 1

By 2020, at the latest, people are aware of the values of biodiversity and the steps they can take to conserve and use it sustainably.



Target 2

By 2020, at the latest, biodiversity values have been integrated into national and local development and poverty reduction strategies and planning processes and are being incorporated into national accounting, as appropriate, and reporting systems.



Target 3

By 2020, at the latest, incentives, including subsidies, harmful to biodiversity are eliminated, phased out or reformed in order to minimize or avoid negative impacts, and positive incentives for the conservation and sustainable use of biodiversity are developed and applied, consistent and in harmony with the Convention and other relevant international obligations, taking into account national socio economic conditions.



Target 4

By 2020, at the latest, Governments, business and stakeholders at all levels have taken steps to achieve or have implemented plans for sustainable production and consumption and have kept the impacts of use of natural resources well within safe ecological limits.

Strategic Goal B: Reduce the direct pressures on biodiversity and promote sustainable use



Target 5

By 2020, the rate of loss of all natural habitats, including forests, is at least halved and where feasible brought close to zero, and degradation and fragmentation is significantly reduced.



Target 6

By 2020 all fish and invertebrate stocks and aquatic plants are managed and harvested sustainably, legally and applying ecosystem based approaches, so that overfishing is avoided, recovery plans and measures are in place for all depleted species, fisheries have no significant adverse impacts on threatened species and vulnerable ecosystems and the impacts of fisheries on stocks, species and ecosystems are within safe ecological limits.



Target 7

By 2020 areas under agriculture, aquaculture and forestry are managed sustainably, ensuring conservation of biodiversity.

¹³ Adopted at the tenth meeting of the Conference of the Parties, to the Convention on Biological Diversity: Nagoya, October 2010

**Target 8**

By 2020, pollution, including from excess nutrients, has been brought to levels that are not detrimental to ecosystem function and biodiversity.

**Target 9**

By 2020, invasive alien species and pathways are identified and prioritized, priority species are controlled or eradicated, and measures are in place to manage pathways to prevent their introduction and establishment.

**Target 10**

By 2015, the multiple anthropogenic pressures on coral reefs, and other vulnerable ecosystems impacted by climate change or ocean acidification are minimized, so as to maintain their integrity and functioning.

Strategic Goal C: To improve the status of biodiversity by safeguarding ecosystems, species and genetic diversity

**Target 11**

By 2020, at least 17 per cent of terrestrial and inland water, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscapes and seascapes.

**Target 12**

By 2020 the extinction of known threatened species has been prevented and their conservation status, particularly of those most in decline, has been improved and sustained.

**Target 13**

By 2020, the genetic diversity of cultivated plants and farmed and domesticated animals and of wild relatives, including other socio-economically as well as culturally valuable species, is maintained, and strategies have been developed and implemented for minimizing genetic erosion and safeguarding their genetic diversity.

Strategic Goal D: Enhance the benefits to all from biodiversity and ecosystem services

**Target 14**

By 2020, ecosystems that provide essential services, including services related to water, and contribute to health, livelihoods and well-being, are restored and safeguarded, taking into account the needs of women, indigenous and local communities, and the poor and vulnerable.

**Target 15**

By 2020, ecosystem resilience and the contribution of biodiversity to carbon stocks has been enhanced, through conservation and restoration, including restoration of at least 15 per cent of degraded ecosystems, thereby contributing to climate change

mitigation and adaptation and to combating desertification.



Target 16

By 2015, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization is in force and operational, consistent with national legislation.

Strategic Goal E: Enhance implementation through participatory planning, knowledge management and capacity building



Target 17

By 2015 each Party has developed, adopted as a policy instrument, and has commenced implementing an effective, participatory and updated national biodiversity strategy and action plan.



Target 18

By 2020, the traditional knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biodiversity, and their customary use of biological resources, are respected, subject to national legislation and relevant international obligations, and fully integrated and reflected in the implementation of the Convention with the full and effective participation of indigenous and local communities, at all relevant levels.



Target 19

By 2020, knowledge, the science base and technologies relating to biodiversity, its values, functioning, status and trends, and the consequences of its loss, are improved, widely shared and transferred, and applied.



Target 20

By 2020, at the latest, the mobilization of financial resources for effectively implementing the Strategic Plan for Biodiversity 2011-2020 from all sources, and in accordance with the consolidated and agreed process in the Strategy for Resource Mobilization, should increase substantially from the current levels. This target will be subject to changes contingent to resource needs assessments to be developed and reported by Parties

Appendix 9: List of ConsulteesStates Departments (Business Units/Sections)

Commerce and Employment (Sea Fisheries, Agriculture & Plant Health)
 Education
 Environment Department (Forward Planning, Conservation and Design,
 Development Control & Building Control)
 HSSD
 Housing
 Public Services (Guernsey Water, Guernsey Harbours, Guernsey Airport,
 States Works)
 Treasury & Resources (Policy Council, States Property Services)

Other Jurisdictions

Island of Sark
 States of Alderney
 States of Jersey (Environment Department)

Non Government Organisations

Alderney Wildlife Trust
 Bumble Bee Boat Cruises
 Environment Guernsey
 La Société / Environment Guernsey
 Guernsey Conservation Volunteers
 Guernsey Fisherman's Association
 Guernsey Housing Association
 Guernsey Men of the Trees
 Insurance Corporation (Conservation Awards)
 Island Rib Voyages Guernsey
 National Trust of Guernsey
 Outdoor Guernsey
 Parish Douzaines
 RSPB
 Tenant Management Herm Island
 Tenant Management Island of Jethou
 Vale Commons Council

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- (N.B. The Treasury and Resources Department recognises the fundamental importance that the protection of biodiversity has to the Island's varied natural environment and, in principle, supports the introduction of a Biodiversity Strategy.**

Regrettably, at this time, the Department cannot support recommendation (c) of the Strategy to provide an additional budget of £80,000 for its funding. As recognised by the Environment Department, in the current financial climate there are limited funds and competing demands. As set out in paragraph 5.14, it is noted that it is intended that the requested £80,000 will be used to fund a co-ordinating role whose responsibilities will include the production of a prioritised programme of Actions Plans. Therefore, it is anticipated that there will be future requests made for further additional resources in order to deliver the Action Plans.

The Treasury and Resources Department welcomes the agreement of the States (in July 2015 as part of the States' Review Committee Policy Letter concerning the Organisation of States' Affairs) that "the Policy & Resources Committee, once constituted in May, 2016, shall establish a policy and resource planning process through a Policy & Resource Plan" Until such a plan is in place there is not an integrated approach to business and financial planning and an agreed method for prioritising services and spending across the public sector to ensure the direction of resources towards political priorities.

It is clear that when consideration is given to approving new strategies and services which invariably have resource requirements to implement, consideration should also be given to how these rank against those currently provided. It is now vital that money for new initiatives is made available by reducing or ceasing some current services which are considered to be lower priority, otherwise funding for new services should not be agreed. In these circumstances, therefore, the Department believes that the Environment Department should reprioritise its existing budgets and expenditure in order to provide the necessary funding for the implementation of the Strategy.)

- (N.B. The protection of the Island's biodiversity is a priority of the Environmental Policy Plan. The Policy Council, therefore, welcomes the production of a Biodiversity Strategy, but notes that to progress this, the States will need to agree to the preparation of more detailed Action Plans to ensure that the States' environmental objectives are met. Given that these Action Plans may lead to the recommendation of policies and legislation that diverge from existing policies and legislation - particularly regarding physical development and land management - their formulation will require careful consideration to ensure they manage appropriately any conflicts between environmental, economic and social policy objectives.**

With that observation in mind, the Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as defined in Billet d'Etat IV of 2011.)

The States are asked to decide:-

XI.- Whether, after consideration of the Policy Letter dated 17th August, 2015, of the Environment Department, they are of the opinion:-

1. To endorse the Biodiversity Strategy, included in Appendix 1 of that Policy Letter.
2. To agree that the Environment Department progress the Biodiversity Strategy by taking the lead coordinating role in preparing and delivering an Agenda for Action through the formation of a Biodiversity Partnership Group, subject to availability of funding.
3. To approve the transfer of £80,000 from the Budget Reserve to the 2016 revenue expenditure of the Environment Department and direct the Treasury and Resources Department to take account of the costs of the Biodiversity Strategy when recommending Cash Limits for the Environment Department for 2017 and subsequent years.
4. To direct the Environment Department to review existing legislation which protects wildlife and habitat and report back to the States of Deliberation on the statutory mechanisms and measures the Environment Department considers necessary to ensure the long term protection of habitat and the biodiversity it supports.
5. To place a policy obligation on all government departments and committees to ensure that they take account of the Biodiversity Strategy and to ensure that departmental operations and outputs are, as far as possible, consistent with the aims of the Strategy and wherever relevant and applicable, to take practical steps to protect and enhance biodiversity.
6. To agree to extend to Guernsey the United Kingdom's ratification of the Convention on Biological Diversity and to work with the Policy Council to take the necessary steps to achieve this.

TREASURY AND RESOURCES DEPARTMENT**CABERNET LTD - RECAPITALISATION**

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

9th September 2015

Dear Sir

1. Executive Summary

- 1.1 Cabernet Ltd, the holding company for Aurigny Air Services and Anglo Normandy Engineering, currently operates through a debt financing model, supported by guarantees agreed by the States of Guernsey.
- 1.2 In 2013, the States agreed that the recapitalisation of Cabernet Ltd should be classified as a Category A “must do” project and approved it for inclusion as a project for capital reserve funding. The recapitalisation must essentially be considered as a legacy project, given that it principally relates to the company’s historic losses and that it arises directly from decisions made previously by the States as long ago as 2005 about the debt funding model for the airline. Recapitalisation will restore the company’s balance sheet to a neutral position.
- 1.3 The purpose of this Policy Letter is to seek the States’ agreement for the recapitalisation of Cabernet Ltd for its cumulative losses of £19.9m from 2003 up to 31st December, 2014, and for its projected losses for 2015 to 2017, which are currently estimated at £5.3m.
- 1.4 The report also provides an update on the shareholder objectives set by the Department for Aurigny Air Services and the operating model currently being pursued by the airline. These objectives include a requirement for the airline to move to a break-even position, albeit they acknowledge that this will not be possible if it is expected to cross-subsidise the losses on its Alderney services from other areas of its operations.
- 1.5 On the assumption that alternative arrangements can be put in place for the funding of the Alderney services, then Aurigny’s current forecasts suggest it will not now break-even until 2018. As a result, this report is not recommending that any direct capital provision be made for the airline from that date. However, the

Department acknowledges that Aurigny operates in a dynamic and unpredictable industry, where around two-thirds of its direct operating costs are either substantially or completely outside of its control. The Department is therefore also recommending that the States provides it with delegated authority to extend additional short-term borrowing facilities to Aurigny to ensure its ongoing operation in the event of unforeseen circumstances that have a material and detrimental impact on its performance.

2. Island Owned Airlines

- 2.1 Recognising the social and economic importance of reliable transport links to their communities, many Island governments have acquired a share in an airline to ensure that vital and sometimes vulnerable air links with key mainland destinations and inter-island links are maintained. The Department is aware of twenty one airlines that are 100% owned by an Island government, eleven where a majority shareholding is taken and six where there is a minority shareholding. These are set out in Appendix 1¹ to this Policy Letter.
- 2.2 Whilst some of the airlines listed in Appendix 1 are very sizeable operations which have little relevance to the Guernsey context in terms of fleet size and services offered, there are some points that merit highlighting:
- the majority of Island government-owned airlines have made losses over the course of time;
 - the low-cost airline model has impacted on a number of Island government-owned airlines. To counter that trend, some of these airlines have reverted to operating only vital inter-island routes and providing essential services, such as medical evacuations;
 - whilst many Island communities have not seen fit to take a share in an airline in order to secure air links, this does not necessarily mean that air services to these Islands are any less vulnerable or that other mechanisms, such as Public Service Obligation² arrangements, have not been employed to protect them;
 - there are many small private operators providing island air services apart from national and international carriers.

Appendix 1 includes a brief description of two airlines which have been selected as particular benchmarks because of the similarities of their operations and environment to the Guernsey context (economic profile, tourism seasonality, GDP per capita, population size, airport facilities, dependent smaller communities etc.).

¹ Source: Island Analysis

² A PSO is an obligation imposed on a carrier to provide a set level of service on a particular route in order to ensure that the service satisfies fixed standards of continuity, regularity, capacity and/or pricing. The rationale for imposing a PSO is to sustain air services to remote regions for economic development purposes, normally where an adequate level of service is not possible if carriers solely take their own commercial considerations into account. PSOs are operated under contract to a Government body, usually awarded through a competitive tendering process and involving the payment of a subsidy.

3. Cabernet Ltd – History of States Ownership and Funding

- 3.1 In 2003, the States of Guernsey agreed³ to purchase Aurigny Air Services to ensure the continuing operation of the former British Airways' services between Guernsey and Gatwick by Aurigny. The purchase was conditional on Aurigny securing a legally enforceable right to appropriate British Airways' slots to operate Gatwick services to and from the Island, which it subsequently did.
- 3.2 In making the purchase, the States agreed that the acquisition of Aurigny was a strategic investment in an operation that would be of considerable value in protecting the Island's long-term social and economic sustainability by securing access to a London hub airport. The purchase was effected through the establishment of a new holding company, Cabernet Ltd, which owns 100% of the capital of Aurigny Air Services Ltd and Anglo Normandy Engineering Ltd.
- 3.3 The purchase was agreed for a total consideration of £5 million, which was funded from the General Revenue Account. At the same time, the States also agreed⁴ that the former Advisory and Finance Committee should provide loans to the Company or, alternatively, enter into any commercial guarantees or underwriting arrangements on its behalf, in order to secure the operation of the services at Gatwick.
- 3.4 In 2005, the States also agreed⁵ that the retention of the Aurigny Group (the collective term for Cabernet Ltd, Aurigny Air Services Ltd and Anglo Normandy Engineering Ltd) continued to be in the overwhelming public interest and represented the best strategic option for the Island. This followed consideration of a States Report from the Department that included consideration of both possible future ownership options and strategic alliances for the Group. At that time, it was also noted that the Group had a funding requirement over the next two years of £4.2m to restore its balance sheets, to meet exceptional restructuring costs and to meet capital investment requirements. It was agreed that the most appropriate means of meeting these requirements would be for the airline to seek further third party funding, including borrowing. The States authorised⁶ the Department to facilitate the Group's borrowings from third parties and directed the Department to report back to the States on the financial position of the Group as part of the annual Budget Reports. Accordingly, the Department has continued to report to the States on the Group's financial position each year and, by way of example, its Budget Report for 2016 will include a summary of its existing loan facilities, its 2014 financial results and its forecast outturn for 2015.

³ Resolution 1 of Billet d'Etat XI of 2003

⁴ Resolution 3 of Billet d'Etat XI of 2003

⁵ Resolution 1 of Article XII of Billet d'Etat IX of 2005

⁶ Resolution 2 of Article XII of Billet d'Etat IX of 2005

- 3.5 In 2007, the States agreed⁷ to authorise the Department to facilitate, if necessary by providing guarantees, the Aurigny Group's borrowing from third parties to finance the purchase of two new ATR72 aircraft for the operation of the Gatwick and other services. At the time, the Department advised the States that its view remained that the retention of the Aurigny Group in the ownership of the States was overwhelmingly in the public interest, but that the matter remained under constant review.
- 3.6 In June of 2009, after considering a report from the Department on capital prioritisation, the States agreed⁸ to include the recapitalisation of Cabernet Ltd within the programme for capital projects running from 2009 to 2013. At the time, the estimated capital cost was £6m. However, following an amendment to the funding model proposed for this capital programme, the States subsequently agreed⁹ to defer the recapitalisation of Cabernet Ltd until the first quarter of 2014. In doing so, the States noted that the Company would continue to operate through debt financing, which would result in a need to increase the size of the facilities available to it. It was also noted that this would lead to a requirement to extend guarantees currently given by the States and the Department was authorised to enter into such agreements as necessary.
- 3.7 In July of 2013, the States agreed¹⁰ to authorise the Treasury and Resources Department to provide such guarantees or loans that were necessary to enable the Aurigny Group to acquire additional aircraft to expand its services to London Gatwick to enable it to provide sufficient capacity to maintain this strategically important service following Flybe's withdrawal. The Department subsequently approved the airline's business case for the acquisition of a new Embraer 195 jet aircraft.
- 3.8 In September of 2013, the States agreed¹¹ that the recapitalisation of Cabernet Ltd should be classified as a Category A "must do" project and approved it for inclusion as a project for capital reserve funding. At that time, it also agreed¹² that the Aurigny Group could borrow from the States General Investment Pool to fund its operating expenses until such time as the Department had reported to the States on its recapitalisation. Subsequently, in July of 2014, the States agreed¹³ that the recapitalisation should be included as part of the States' Capital Investment Portfolio.
- 3.9 Finally, in May of 2014, the States authorised¹⁴ the Department to provide loans to Aurigny to finance the purchase of such aircraft as are required to operate its services to and from Alderney. In doing so, the States noted Aurigny's plans to

⁷ Resolutions 1 and 2 of Article X of Billet d'Etat XVI of 2007

⁸ Resolution 1 of Billet d'Etat IX of 2009

⁹ Resolution 1 and 3 of Article IX of Billet d'Etat XXIV of 2009

¹⁰ Resolutions 1 and 2 of Billet d'Etat XVII of 2013

¹¹ Resolution 1 of Article I of Billet d'Etat XIX of 2013

¹² Resolution 8 of Article I of Billet d'Etat XIX of 2013

¹³ Resolution 2 of Article VIII of Billet d'Etat XVI of 2014

¹⁴ Resolution 1 of Article XI of Billet d'Etat X of 2014

replace its ageing fleet of Trislander with a mixture of second-hand and new Dornier aircraft. At the time, it was noted that any decision on the acquisition of new aircraft would not be made until such time that the States had made a decision about any possible extension of the runway in Alderney and the consequent possibilities this would offer for the introduction of aircraft larger than the Dornier. Following consideration of the Policy Council's States Report on the Airport and Economic Development in Alderney¹⁵ last December, the States has decided against such an extension for the time being.

- 3.10 At this time, the Department remains firmly of the view that the retention of the Aurigny Group in the ownership of the States remains overwhelmingly in the Bailiwick's strategic interest. In this manner, the Island can ensure that decisions around its essential public air services are determined not just by commercial considerations, but by wider economic and social ones as well. It provides an insurance policy to safeguard existing links and a tool by which new routes, such as London City, can be developed in the wider strategic interest of the Island. However, whilst there remains in place an objective for Aurigny to reach a break-even position (see Section 4 of this report), the States will have to accept that the ownership of the airline brings with it a risk that ongoing financial support will be required. This is a natural consequence of tempering its strict commercial considerations with its wider social and economic responsibilities, in much the same way as the Island's bus services.

4. Shareholder Objectives and Guidance

Shareholder Objectives

- 4.1 Acting through its Supervisory Sub-Committee, which has been established to provide oversight for all States-owned trading companies and to ensure that it acts as an effective shareholder, the Department has established a number of shareholder objectives for the Aurigny Group. These cover a range of financial, operational, commercial, safety and customer focused areas.
- 4.2 In 2014, some of the key objectives included:
- Ensuring that 60% of its fares on the Gatwick route were available for £65 or less (excluding United Kingdom Air Passenger Duty ('APD')). This was in keeping with the commitments given by the Department when it reported to the States in 2013 on the Gatwick service. The target would be subject to an annual review. In 2014, Aurigny exceeded this target, with over two-thirds of its passengers (68%) paying £65 or less and half paying £50 or less (although if the first quarter of the year is excluded when Flybe was still competing on the route, the figure falls slightly to 67%). Despite concerns about an overall reduction in capacity on the Gatwick services following

¹⁵ Article 6 of Billet d'Etat XXVI of 2014

Flybe's withdrawal, the average load factor on the route has been 78%, with a monthly average of only 2.7% of flights operating full;

- Ensuring that 89% of flights departed within 15 minutes of their scheduled departure time. Punctuality targets have proved challenging for Aurigny, with the monthly average figure across the fleet in 2014 standing at 85.9% compared with a figure of 86.6% in 2013. Aurigny is introducing a number of initiatives to improve its performance in this area. However, a particular challenge remains congestion in the peak summer period at the UK airports into which it operates, particularly Gatwick, which can have a significant knock-on effect on its own punctuality;
- Reducing its controllable costs per seat kilometre by at least 2½%. The Department does not publish the exact costs for reasons of commercial confidentiality, but can confirm that Aurigny substantially exceeded this target in 2014 by keeping tight control on its own costs whilst undertaking more flying. Controllable costs per seat kilometre were reduced by over 10% in 2014;
- Maintaining a capability to operate to Alderney. Following the States' decision last May, Aurigny has now acquired two used Dornier aircraft as part of a phased programme to replace the Trislander. Operationally, it is acknowledged that the transition to the Dornier has not been smooth and it has encountered well reported difficulties. Overall, reliability on the Alderney services in 2014 saw 86% of services departing within 15 minutes of their scheduled departure time; and
- Supporting and maintaining communications and travel options for local businesses, tourism and citizens. Key achievements in this respect in 2014 were the launch of twice daily weekday services to London City Airport and the introduction of an additional weekend rotation to London Gatwick. In addition, connections to Stansted, many of which previously operated via Jersey, are now all operating on a direct basis.

Connectivity and a competitive position has been maintained on the Jersey/Guernsey route, albeit through the codeshare arrangement introduced with Blue Islands. This has resulted in a substantial reduction in losses being experienced by Aurigny on the route, as well as reducing the capital requirement for investment in new aircraft to service it following the retirement of the Trislander. The Department continues to discuss with Aurigny concerns that have been expressed about the codeshare arrangement, particularly around availability of seats at peak periods. The existing codeshare agreement expires in early 2016 and Aurigny is currently undertaking an evaluation of the different options open to it in respect of the Jersey/Guernsey route after that point.

Overall, total passenger numbers carried by Aurigny across its services in 2014 increased by over 80,000 (17%).

- 4.3 The Department has reviewed the shareholder objectives with the airline for 2015. The updated objectives are set out in Table 1 below, together with the Key Performance Indicators against which its performance will be measured.

Table 1: 2015 Shareholder Objectives and KPIs

Area	Shareholder Objective	Indicators
Operational	<ul style="list-style-type: none"> • Maintain and operate 6 pairs of slots at Gatwick Airport • Maintain a capability to service Alderney • Ensure 89% of departures leave within 15 minutes of scheduled departure time • Develop/implement interline/codeshare capability, subject to the submission and acceptance of a satisfactory business case by the Shareholder 	<ul style="list-style-type: none"> • Total pax carried (monthly vs prior year) • LGW load factors (percentage of flights per month operating at 100% and report by exception on flights operating beyond 95%) • System wide punctuality report (3 month rolling average by aircraft type) • System wide cancellations (3 month rolling average of operated flights vs planned schedule by aircraft type) • LGW cancellations report (3 month and 12 month rolling averages of operated flights vs planned schedule)
Commercial & Financial	<ul style="list-style-type: none"> • Achieve a breakeven position for the Aurigny Group on a full profit and loss basis, excluding agreed exceptional one-off costs and losses incurred in operating lifeline services to and from Alderney agreed with the Shareholder • Optimise the airline's operating cost base, with no real-terms increase in controllable costs per available seat kilometre compared to 2014 • Offer 63% (2014: 60%) of seats on LGW services at £67.22 or less (2014: £65) in 2015 (excluding APD) 	<ul style="list-style-type: none"> • EBITDA, EBIT and P&L • System wide passenger yields (monthly and year to date) • LGW passenger yields (monthly and year to date) • Costs per available seat kilometre (controllable and non-controllable) • System wide revenue per available seat kilometre • Cash .vs. budget • Monthly sales .vs. prior year • Monthly revenue .vs. prior year • Seat sales by fare value
Safety	<ul style="list-style-type: none"> • Maintain a licence/capability to operate 	<ul style="list-style-type: none"> • Ensure there are no level 1 CAA audit findings
Customer/Island Reputation	<ul style="list-style-type: none"> • Support and maintain communications and travel options for local businesses, tourism and citizens • Establish Quality of Service Survey by Q3 2015 	<ul style="list-style-type: none"> • Total destinations served • No of scheduled flights per week • Biennial customer satisfaction survey/report • Complaints per 1000 flights • QSI Survey Results

4.4 Some of the key features of the 2015 objectives include:

- The development of a capability to introduce interline and codeshare arrangements to improve connectivity to and from the Island, subject to the Department considering a business case from the airline for any investment required in its reservation systems. It will also depend heavily on the commercial terms that can be agreed with other carriers;
- An adjustment in the fare target figure for the Gatwick services from £65 to £67.22 (excluding APD), taking into account changes in RPI and increases in Gatwick Airport passenger charges, together with an increase from 60% to 63% in the number of passengers to whom fares at this level (or below) should be available; and
- An ongoing requirement for the airline to move towards a breakeven position on a full profit and loss basis, but now excluding agreed exceptional one-off costs and losses incurred in operating lifeline services to and from Alderney agreed with the Shareholder.

The working relationship between the Department and Aurigny is set out in the Memorandum of Understanding (“MoU”) that has been agreed with the Company. The MoU clearly sets out the expectations placed on the airline by the Department and the commitments both parties have made to each other. A copy of this MoU, which includes the shareholder objectives and the Key Performance Indicators that are used to assist in monitoring its performance, is attached as Appendix 3 to this Policy Letter.

Operating Model and Scenarios

- 4.5 The Department has carefully considered with Aurigny the financial impacts of a number of different route operating scenarios, particularly taking into account the changes in the London market over the last 18 months.
- 4.6 The current capacity provided by Aurigny on the Gatwick route is over 440,000 seats per annum and comfortably exceeds current levels of demand, which in 2014 stood at 316,000 passengers¹⁶. The launch of the London City route injected around a further 50,000 seats per annum into the market. Given the need to operate the London City service at peak travel times when its existing fleet is already fully utilised in order to suit the requirements of business traffic, Aurigny has had to lease an additional aircraft to service the route.
- 4.7 Aurigny’s budgets for 2015 demonstrate that the London City service will incur substantial losses, albeit it is anticipated the route’s financial performance will improve as it becomes more established. The introduction of this service was a direct response to requests from the local business community. It reflects the importance of financial and business services to the Island’s economy and the importance of easy access to and from the City of London upon which these

¹⁶ Source: Guernsey Airport. Figure is for total passenger numbers carried by both Aurigny and Flybe in 2014

services rely for their long-term success. It has also ensured that Aurigny is able to offer sufficient capacity at the busiest times of the day for the overall London market. The Department's view is that development of the service is of strategic importance for the Island, given the improved connections it offers with the City of London. It also diversifies the Island's links into the London area generally. Clearly, the City service can never be expected to provide a complete and viable alternative to Gatwick. However, it does have the strategic benefit of reducing the Island's high degree of dependence on the Gatwick services.

- 4.8 Whilst Aurigny is seeking to stimulate additional market growth with the new City service, it anticipates some migration of passengers to it from Gatwick. As such, the Department has reviewed with Aurigny the pros and cons of withdrawing two of its existing smaller turboprop rotations into Gatwick. This would still leave around 400,000 seats provided between the two routes to meet the demands of the London market and would avoid the need for an additional aircraft for the City route. Whilst this would improve the airline's financial performance, it depends heavily on a much stronger take-up of the City service than has hitherto been the case. Perhaps most importantly, it would leave the airline with surplus landing and take-off slots at Gatwick which have tangible value and, if left unused, would have to be given up or, possibly, leased to another operator.
- 4.9 Whilst the City service is gradually developing, it is still very much in its infancy. Therefore, the Department has taken the view that any rationalisation of services into Gatwick at this time would represent too great a strategic risk and Aurigny's budgets have been prepared on this basis. Nevertheless, the Department has directed Aurigny to keep the options under review.

Alderney Air Services

- 4.10 In 2014, after considering a report from the Policy Council on the Airport and Economic Development in Alderney, the States directed¹⁷ the Commerce and Employment Department, in co-operation with the States of Alderney Policy and Finance Committee, to consider the best mechanisms by which the existing Guernsey-Alderney and Alderney-Southampton air routes might be safeguarded in terms of fares, frequencies and capacities on the basis of the best available evidence about the likely economic impacts, using the most appropriate legislative/administrative vehicle(s) to achieve these objectives.
- 4.11 Pending the completion of this work stream and recognising the concerns that exist in Alderney about the security of their air services, the Department has agreed that a Memorandum of Understanding ("MoU") should be put in place with the States of Alderney and Aurigny as an interim measure that encapsulates existing service and fare levels upon which Aurigny's current budgets are based. This would also include a mechanism for consulting with the States of Alderney

¹⁷ Resolution 5 of Article 6 of Billet d'Etat XXVI of 2014 – The Airport and Economic Development in Alderney

before any substantive changes in service levels were made, which would clearly identify all the factors to be taken into consideration, whether these are operational, financial or other. Discussions with the States of Alderney about this MoU are ongoing, but the Department anticipates having it in place before the end of 2015.

4.12 Aurigny's plans for the initial use of used Dorniers for its Alderney services were predicated on the assumption that new aircraft would not be available until the end of 2016 at the earliest. As noted in section 3.9 above, this also allowed time for the States to consider options around future runway arrangements at Alderney Airport. The manufacturer, RUAG, has subsequently advised that an option has become available to accelerate the delivery of new aircraft, with the first being available for delivery towards the end of the last quarter of 2015. Aurigny has approached the Department with a business case for the acquisition of the new aircraft. In considering the business case, the Department took into account the following mixed considerations:

- There are no guarantees as to how long the option from RUAG would remain available;
- Aurigny requires a fleet of three Dorniers to enable it to retire its Trislander fleet and secure the future operation of its essential services to Alderney. Until this option became available, it had only been able to acquire two;
- The States has decided against a runway extension in Alderney;
- Whilst the operating and maintenance costs of the new aircraft will be lower than the second hand ones (which themselves were forecast to be cheaper than the Trislander), the benefits will be outweighed by the additional costs of ownership, particularly depreciation. The net additional cost of operating each new aircraft in terms of interest and depreciation will be around £300,000 per aircraft per annum;
- In the event that the work being undertaken to investigate options for safeguarding the routes to and from Alderney included the possibility of putting the services out to tender, there is a risk that Aurigny might lose them to another operator and be left with surplus aircraft.

The Department's conclusion was that the overriding factors were the needs of Alderney and the wider Bailiwick. The significance and importance of air links to Alderney and the Island's social and economic wellbeing cannot be overstated. It was also conscious that the important work being undertaken in Alderney on the development and implementation of its Economic Development Plan would be substantially prejudiced in the absence of secure and reliable air links.

4.13 Accordingly, to date the Department has provided loan finance to Aurigny of £6m for the acquisition of just a single new Dornier aircraft, which will provide the airline with the fleet of three that it requires to continue providing a sustainable service to Alderney. However, given the age of the second hand aircraft already acquired by the airline (both in excess of twenty years), the

Department feels it would be prudent to make provision as part of the recapitalisation of the airline for the acquisition of a second new aircraft. Assuming the States accepts the recapitalisation proposals, Aurigny intends to order a second new Dornier for delivery in 2017. At that point, one of the used aircraft will be retired and the second will be retained for back-up purposes and used at peak periods, such as Alderney week.

5. Aurigny – Financial Performance

Accumulated Losses and Existing Borrowing Facilities

- 5.1 The table in Appendix 2 shows that the Aurigny Group's accumulated losses between 2003 and the end of 2014 amounted to £19,912,000.
- 5.2 Whilst it is necessary for the purposes of the recommendations of this report to consider the Group's annual and accumulated losses in isolation, it should be acknowledged that it makes an important and positive contribution to other parts of the Island's economy. For instance, whilst on the one side its losses for 2014 were £3.5m, on the other side the Group was responsible in the same year for just under £1m in ETI payments, over £900,000 of social security contributions and over £5m in payments for charges at Guernsey and Alderney airports.
- 5.3 With the prior agreement of the States of Deliberation (see section 3 of this report), the Group has previously entered into the following finance facilities:
- a) A loan facility, guaranteed by the States, of up to £10m with the Royal Bank of Scotland International at normal commercial rates and terms. As at 4th September, 2015, £9.3m was drawn down;
 - b) A loan facility from the Royal Bank of Scotland International, guaranteed by the States, to purchase two new ATR72-500 aircraft. As at 4th September, 2015, £12.1m was outstanding;
 - c) A loan from the States General Investment Pool to purchase a new Embraer 195 jet (and spare parts and ground support equipment) and to purchase its existing ATR72-200 aircraft (which was previously leased by the airline and which has been retained for back-up purposes). As at 30th June, £23.2m was outstanding;
 - d) A loan facility from the States General Investment Pool to purchase two second-hand Dornier aircraft. As at 30th June, £2.5m was outstanding.
 - e) A short-term borrowing facility from the States General Investment Pool to fund operating expenses. As at 4th September, 2015, £5.7m was drawn-down.

Recapitalisation of the Group will enable it to repay its existing facility with RBSI set out in (a) above and its facility with the States set out in (e) above.

- 5.4 Using the proceeds available as a result of issuing a States of Guernsey bond, the Department has agreed to re-finance the facilities set out in (c) and (d) above.

Consequently, the airline is now benefitting from access to capital at lower costs than was previously available. Its capital costs for these aircraft loans is also now fixed at these low rates, providing the airline with greater certainty and stability for budget planning purposes. However, the borrowing arrangement set out in (b) above has not been re-financed as it was not cost effective to break the existing interest rate swap in place for this facility, although further consideration will be given to doing so when this arrangement expires. The proceeds from the bond will also be used for the provision of loan finance to Aurigny for the acquisition of two new Dornier aircraft.

Financial Projections

- 5.5 The table below sets out the Aurigny Group's current projected profit and loss figures between 2015 and 2019 (prior to the introduction of new Dorniers):

Table 2: Financial Projections: 2015-2019

	2015 (£m)	2016 (£m)	2017 (£m)	2018 (£m)	2019 (£m)
Total Revenues	44.7	46.3	46.9	47.1	47.1
Total Direct Costs	27.3	28.6	29.0	29.1	29.3
Fixed Costs	16.7	17.3	17.3	17.3	17.3
PROFIT BEFORE INTEREST	0.7	0.4	0.6	0.7	0.5
Interest	(2.2)	(1.6)	(1.5)	(1.4)	(1.2)
Exceptional Items	(0.8)				
EARNINGS BEFORE TAX	(2.3)	(1.2)	(0.9)	(0.7)	(0.7)

The next table sets out the impact on earnings set out in the above profit and loss forecast arising from the planned introduction of the two new Dornier aircraft:

	2015 (£m)	2016 (£m)	2017 (£m)	2018 (£m)	2019 (£m)
EARNINGS BEFORE TAX	(2.3)	(1.2)	(0.9)	(0.7)	(0.7)
Impact of Dornier Replacement					
Maintenance Saving		0.2	0.3	0.3	0.3
Increased Depreciation		(0.3)	(0.5)	(0.5)	(0.5)
Interest		(0.2)	(0.4)	(0.4)	(0.4)
REVISED EARNINGS BEFORE TAX	(2.3)	(1.5)	(1.5)	(1.3)	(1.3)

Note: The proposals in this report relate to the recapitalisation of the Aurigny Group up to the end of 2017. Figures for 2018 and 2019 are provided for illustrative purposes.

Assuming an entry into service of the second aircraft in mid-2016, the full impact of introducing the two new Dorniers is not seen until 2017, when the total additional net annual cost is £600,000 per annum.

- 5.6 The Department is conscious that previous forecasts in 2013 had indicated¹⁸ that Aurigny would move into a breakeven position in 2015 and, thereafter, would begin to make a modest profit of between £200,000 and £400,000 per annum. The ongoing loss-making position that is now being forecast is a cumulative result of a number of key factors, both positive and negative, that have changed since then. The material changes are summarised in the table below:

PROFIT AND LOSS FORECAST FACTORS/ASSUMPTIONS	
POSITIVE IMPACT	NEGATIVE IMPACT
<ul style="list-style-type: none"> • Reduction in fuel prices. Whilst Aurigny has been able to hedge its fuel purchases to ensure it can take advantage of the reduction in fuel prices over the past year or so, its forecasts for 2016 onwards do anticipate an upward trend in fuel prices consistent with the forward prices available at the time the forecast was prepared. • Impact of Blue Islands codeshare on Guernsey-Jersey route in reducing operational losses. • Purchase “off-lease” of backup ATR72 aircraft for Gatwick services. An assessment of the ownership versus leasing costs of this aircraft demonstrated that it was more cost effective to purchase the aircraft off-lease when this option became available. 	<ul style="list-style-type: none"> • Introduction of London City service (see section 4.7 above). • EU Flight Compensation Regulation 261. These regulations set out the rules for passenger compensation in the event of flight cancellations and delays. As a result of a ruling of the English Court of Appeal in 2014 establishing that compensation is payable for flights cancelled for ordinary technical problems, Aurigny has had to make increased provision for the cost of such payments. • Increased passenger service charge at Gatwick Airport (LGW). These charges are increasing following LGW’s decision to align domestic & international charges. • Withdrawal of Guernsey Airport pushback subsidy and Commerce & Employment air route subsidy. • Gatwick (LGW) handling. Following the deterioration in the performance of its UK handling agent, Aurigny has had to invest in a new ground handling services contract for its LGW operation to improve service reliability/punctuality. • Maintenance costs for the ATR-72s are increasing beyond budget following the discovery of corrosion during their periodic heavy maintenance inspections.

¹⁸ Billet d’Etat XXIII of 2013

Impact of Alderney Services

- 5.7 Whilst the forecasts continue to show that Aurigny will continue making losses, these will be reducing from their historic levels from 2016 onwards. From this point onwards, the airline is projecting losses of between £1.3m and £1.5m per annum.
- 5.8 However, these overall figures mask an ongoing forecast loss of around £700,000 per annum on the airline's services between Alderney, Guernsey and Southampton, increasing to £1.3m per annum once the cost of the two new Dornier aircraft is taken into consideration. If the impact of the Alderney services was to be stripped out of the figures, then Aurigny should move into a breakeven position from 2018 onwards.
- 5.9 Of course, the Department fully recognises the substantial importance to the economic and social wellbeing of Alderney that the lifeline services provided by Aurigny provide. However, it is concerned that the current arrangements are unsatisfactory because:
- If the airline seeks to cover the losses of flying the Alderney routes, this would only be achieved by passengers elsewhere on the Aurigny network effectively cross-subsidising these lifeline services;
 - In determining service levels, Aurigny is left in the invidious position of having to balance commercial factors with considerations about Alderney's social and economic wellbeing;
 - The arrangements mitigate an informed debate about what the appropriate levels of service for Alderney would be, how much these would cost and who should meet those costs.

The Department believes this reinforces the need to examine the introduction of a more open and transparent means of supporting air services to Alderney, possibly involving a Public Service Obligation ("PSO") air service arrangement and the payment of an open revenue subsidy in return for the provision of a specified level of service (frequency, capacity, fares etc).

- 5.10 The Department understands that the work being undertaken by the Commerce and Employment Department has concluded that the most appropriate mechanism for safeguarding Alderney's air services (see section 4.10) would be a PSO option. It further understands that the Policy Council will be reporting to the States on this matter in due course. Given that this could entail the introduction of direct revenue subsidies for the routes, such an option would also need to be considered as part of the wider review of the financial relationship between Guernsey and Alderney that the States has also directed¹⁹ should take place. This review will also provide an opportunity to take into account not just the cost of providing air services, but the wider costs involved in the provision and operation of Alderney Airport.

¹⁹ Resolution 2 of Article VI of Billet d'Etat XXVI of 2014 – The Airport and Economic Development in Alderney

Recapitalisation

- 5.11 The recapitalisation of Aurigny will require provision to be made for its accumulated losses from 2003 to 31st December, 2014, of £19.9m (see Appendix 2). The Department is also proposing that provision should be made for the forecast losses for the period 2015 to 2017. At the present time, the forecasts set out in section 5.5 above suggest that these will amount to £5.3m (2015: £2.3m; 2016: £1.5m; 2017: £1.5m).
- 5.12 The Department is not proposing to make any specific provision for additional recapitalisation of the Aurigny Group with effect from 2018. Its working assumption is that, by that point, an alternative means of providing for the services to and from Alderney will have been identified and agreed by the States. This would involve a transparent and separate means of meeting the cost of providing these services, either by Aurigny or by any other operator that might be successful in tendering for their operation in a PSO arrangement. The current costs of meeting the services would then no longer fall to Aurigny to absorb and, on the basis of the financial projections set out above, the airline should move into a breakeven position. In the event that such arrangements are not in place before that point, the Department will need to report back to the States at that time with further proposals for funding of the airline.
- 5.13 It is anticipated that, once the recapitalisation of Cabernet has been completed, the company's registration will be transferred from Jersey to Guernsey. This is also likely to entail a reorganisation of the companies within the Group, most likely restructuring the three existing entities into one and reducing the associated administrative overheads.

6. States Capital Investment Portfolio

- 6.1 The recapitalisation of the Aurigny Group as part of the current States Capital Investment Portfolio (SCIP) must essentially be considered as a "legacy" project, given that it relates to the Group's historic losses and that it arises directly from decisions made previously by the States as long ago as 2005 and, more recently, in 2009, about the debt funding model for the airline that are set out in section 3 of this report.
- 6.2 Recognising that the proposals in this report commit the States to meeting the forecast losses for 2015 to 2017, the Department commissioned an independent review of these forecasts. This was undertaken locally by BDO at a cost of £27,500. The review identified and documented the salient assumptions that have been used in preparing the financial forecasts. It commented on the basis for the use of these assumptions and, as such, provided the Department with assurance on their robustness and that they had been applied correctly.

6.3 Having considered the results of the review, the Department's conclusion was that the forecasts for 2015 onwards provided by the Aurigny Group were reasonable, albeit that they were at the optimistic end of the spectrum. This is relevant because the airline operates in a highly dynamic environment and there are many factors outside of its control that can affect its costs and revenues, both positively and negatively. Indeed, around two-thirds of Aurigny's direct operating costs are either completely or heavily influenced by factors outside of the airline's control. Therefore, as part of the review process, Aurigny was asked to undertake sensitivity analyses of changes in some of the key assumptions used in the modelling, including the following²⁰:

- A 10% reduction in passenger numbers. It is estimated that this would result in a reduction in revenues of approximately £3.6m per annum. This ignores any steps that management might take to mitigate this impact, including: increasing ticket prices (to the extent that the competitive position within the market would allow without resulting in further loss of passenger volumes); reducing ticket prices and/or running promotions to attract further customers; and, amending flight schedules to increase passenger load factors and reduce operating costs;
- An increase in fuel costs to 2014 average levels. Whilst the forecasts do prudently allow for an upward trend in fuel prices over time, a reversion to 2014 levels would increase direct costs by around £2.4m per annum. Again, there are steps that can be taken to mitigate the risk of fuel price increases, notably using forward contracts to hedge against them. Having already hedged its purchases until mid-2016, Aurigny continues to keep its hedging options under review;
- A strengthening in the value of the US Dollar (USD). Some of the airline's costs, notably fuel, are paid in USDs. A change in the assumed exchange rate, with the USD strengthening to \$1.40 against sterling, would increase Aurigny's costs by around £460,000 per annum. One step that could be considered to mitigate this risk would be the use of forward exchange contracts to hedge against the impact of this scenario;
- An increase in maintenance costs. Despite a rigorous planned maintenance regime, unplanned costs can arise and the recent identification of corrosion on part of the ATR fleet (see section 5.6) and the lightning strike on the Embraer are examples of these. Engine overhauls, which represent the largest proportion of maintenance costs, can also be unpredictable given the relatively harsh marine environment in which flights to the Islands operate. In addition, whilst the manufacturer will provide its best estimates of the maintenance costs for new aircraft, such as the Dorniers, actual costs may vary once they are introduced to service. A 10% increase in maintenance costs would increase overall expenditure by around £500,000 per annum.

²⁰ Sensitivity analysis based on 2016 profit and loss account projections

- 6.4 Based on its accumulated losses and the current forecasts for 2015 to 2017, the current anticipated cost of recapitalising the Aurigny Group is £25.2m. However, given the volatility of the environment within which the airline operates, the Department is recommending that the States provides it with delegated authority to extend additional short-term borrowing facilities to Aurigny to ensure its ongoing operation in the event of unforeseen circumstances that have a material and detrimental impact on its performance. Any such facilities would be subject to the condition that the Department would report to the States on the details of them within six months of their provision.
- 6.5 In 2013, the Department's initial estimates were that the funding required for the recapitalisation of Cabernet Ltd would be £21m, some £4.2m less than currently forecast. The main drivers for this change are set out in section 5.6 of this report, coupled with the increased costs of ownership associated with the two new Dornier aircraft for the Alderney services.
- 6.6 The 2016 Budget Report notes that the Capital Reserve Portfolio is currently oversubscribed by an estimated £52m. Whilst the Report sets out the steps that the Department is recommending should be taken to address the funding shortfall, any increase in project cost estimates must be considered in this context. In addition, projects are routinely requesting significant amounts of additional funding at the Outline Business case ("OBC") stage. Therefore, there is a risk that there may be a need for other projects within the portfolio to be de-prioritised, removed or reduced in scope.

7. Recommendations

- 7.1 The Department therefore recommends the States:
- a) To approve the establishment of a capital vote charged to the Capital Reserve to fund:
 - (i) The recapitalisation of Cabernet Ltd in respect of cumulative losses of £19.9m up to 31st December, 2014;
 - (ii) The recapitalisation of Cabernet Ltd in respect of its forecast losses of £5.3m for the years 2015 to 2017;
 - (iii) The cost of the independent review undertaken by BDO set out in section 6.2 of this report in the sum of £27,500;
 - b) To authorise the Treasury and Resources Department to provide short-term borrowing facilities to the Aurigny Group;
 - c) To direct the Treasury and Resources Department to report to the States with details of any short-term borrowing facilities provided to the Aurigny Group within six months of their provision, explaining the need for the facility.

Yours faithfully

G A St Pier
Minister

J Kuttelwascher (Deputy Minister)

A H Adam
R A Perrot
A Spruce

Mr J Hollis (Non-States Member)

APPENDIX 1 - ISLAND OWNED AIRLINES

Government	Airline	Year Established	Shareholding
Bahamas	Bahamasair	1973	100%
Bahrain	Gulf Air	1950	100%
Cape Verde	TACV Cabo Verde	1958	100%
Cayman Islands	Cayman Airways	1968	100%
Cuba	Aerocaribbean	1982	100%
Cuba	Aerogaviota	1982	100%
Cuba	Cubana de Aviacion	1930	100%
Falkland Islands	Government Air Service	n/a	100%
Guernsey	Aurigny Air Services	1968	100%
Kiribati	Air Kiribati	1995	100%
Maldives	Maldivian	2000	100%
Marshall Islands	Air Marshall Islands	1989	100%
Nauru	Our Airline	1970	100%
Papua New Guinea	Air Niugini	1973	100%
Samoa	Polynesian Airlines	1959	100%
Solomon Islands	Soloman Airlines	1968	100%
Sri Lanka	Mihin Lanka	2007	100%
St Maartan/Saba & Statia	Winair	1961	92% / 8%
Trinidad and Tobago/Jamaica	Caribbean Airlines	2007	84% / 16%
Vanuatu	Air Vanuatu	1987	100%
11 Caribbean Governments	LIAT	1974	100%
Malta	Air Malta	1974	98%
Sri Lanka	SriLankan Airlines	1979	95%
French Polynesia	Air Tahiti Nui	1998	84%
Cyprus	Cyprus Airways (closed)	1948	70%

Government (cont)	Airline (cont)	Year Established	Shareholding
Faroe Islands	Atlantic Airways	1988	66% ²¹
Corsica	Air Corsica	1990	60%
Seychelles	Air Seychelles	1979	60%
Mauritius	Air Mauritius	1972	59%
Singapore	Singapore Airlines	1972	56%
New Caledonia	Air Caledonie	1955	51%
Fiji	Fiji Airways	1951	51%
Samoa	Virgin Samoa	2005	49%
Reunion	Air Austral	1975	37%
Singapore	Tiger Airlines	2004	33%
Jeju	Jeju Air	2006	25%
French Polynesia	Air Tahiti	1953	14%
Guadeloupe	Air Caraibes	1994	10%

Case Study 1 – Cayman Airways

The current population of the Cayman Islands is just under 60,000. Of the three Islands that make up the group (Grand Cayman, Cayman Brac and Little Cayman), each has its own airport and runway lengths are 2,136m, 1832m and 998m respectively. 96% of the population live on Grand Cayman.

Based in Grand Cayman, Cayman Airways has been wholly owned by the Government since 1977 and has been serving the Islands as the national flag carrier since 1968. It operates flights within the Cayman Islands and to various destinations within the United States, Cuba, Honduras and Jamaica.

In 2013, the Government injected \$5m into the Company, in addition to the \$18m it spends on route purchase agreements (it buys non-profitable, but critical, routes and flights). The company has made losses for many years. A series of independent studies found that the economic impact of Cayman Airways to the economy of the Islands was almost C\$200m per annum.

²¹ The Faroese Government is in the process of re-establishing 100% ownership of Atlantic Airways

The following framework is central to the business of the airline:

- Core routes which the airline dominates and provide a good financial return or breakeven;
- Strategic domestic routes/flights purchased by the government and operated on its behalf by the airline;
- Strategic tourism international routes/flights purchased by the government which have national importance and are again operated on its behalf by the airline.

The strategic flights purchased by the government represent 25% of the airline's revenues.

Case Study 2 – Atlantic Airways (Faroe Islands)

The Faroe Islands are self-governing Islands within the Danish Realm and comprise a number of Islands. Their population is just under 50,000.

Atlantic Airways was established in 1987 and the Faroe Islands government currently holds a 66% shareholding in the airline. It sold one third of its original 100% shareholding in 2007²². However, it was subsequently delisted from the stock exchange in 2014 and the Faroese Government is currently in the process of re-establishing sole ownership of the Company.

The airline operates direct services to Denmark, Norway and Iceland. It also has a helicopter service serving the smaller Faroe Islands and also provides a search and rescue capability. In addition to the scheduled operations, the company earns revenue from charter operations primarily from Copenhagen to Spain and Italy, but also to other European destinations.

There is only one airport on the Faroes. Its runway was extended in 2011 from 1250m to 1799m, thus allowing more aircraft types to operate. Previously, only short take-off and landing aircraft, such as the Bae 146, could use the airport. Subsequently, Atlantic Airways has updated its fleet with Airbus A319 aircraft, which are able to utilise the extended runway and services using this aircraft commenced in March, 2012.

The airline is profitable, although profits have varied in the last four years from DKK23m in 2011 to DKK7m in 2013, increasing to DKK16m in 2014.

²² The Faroese Government embarked on a systematic process of privatising a number of Government owned enterprises in support of the 2005 Enterprise Policy published by its Ministry of Trade and Industry. Article 1 of its Guidelines on Privatising Governmental Companies set out the following incentives for such privatisations: To clarify the border between the public and private sectors; To protect the taxpayers' capital currently locked-up in governmentally owned companies; To reduce public debt; To increase the options of companies which are currently owned by the government; To strive to create value; To increase the numbers of shareholders in commercial companies; To strengthen the Faroese capital markets.

APPENDIX 2 – AURIGNY TRADING POSITION

Aurigny Trading Position (£,000s)												
Aurigny	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	
Revenue	40,112	31,076	31,784	30,359	25,609	26,260	24,484	24,940	25,650	24,162	29,571	
Direct Costs	(33,522)	(27,667)	(26,398)	(24,995)	(21,829)	(22,351)	(20,723)	(19,169)	(19,926)	(18,653)	(25,218)	
Operating Result	6,590	3,409	5,386	5,364	3,780	3,909	3,761	5,771	5,724	5,509	4,353	
Overheads	(6,573)	(5,440)	(5,108)	(5,010)	(4,741)	(4,516)	(5,141)	(5,033)	(5,164)	(5,397)	(5,988)	
Other Operating Income	7	9	11	43	37	53	81	79	89	92	140	
Operating Profit/Loss	24	(2,022)	289	397	(924)	(554)	(1,299)	817	649	204	(1,495)	
Net Interest	(1,305)	(925)	(951)	(995)	(1,019)	(1,059)	(226)	(181)	(169)	(188)	(42)	
Extraordinary items	(2,221)	(973)	(3,274)					(447)		(621)	(420)	
Profit/(Loss)	(3,502)	(3,920)	(3,936)	(598)	(1,943)	(1,613)	(1,525)	189	480	(605)	(1,957)	
Anglo Normandy												
Revenue	3,212	4,532	5,009	5,655	4,556	4,489	6,894	6,068	5,287	5,043	5,460	
Direct Costs	(3,082)	(4,092)	(4,354)	(4,857)	(3,884)	(3,906)	(6,167)	(4,813)	(4,089)	(3,855)	(4,301)	
Operating Result	130	440	655	798	672	583	727	1,255	1,198	1,188	1,159	
Overheads	(932)	(787)	(965)	(923)	(801)	(785)	(1,172)	(1,202)	(1,421)	(1,322)	(1,273)	
Operating Loss	(802)	(347)	(310)	(125)	(129)	(202)	(445)	53	(223)	(134)	(114)	
Net Interest	(4)	(4)	(5)	(2)	(1)	(2)	(3)	(2)	(2)	(3)	(5)	
Extraordinary items	806	351	1,218									
Profit/(Loss)	0	0	903	(127)	(130)	(204)	(448)	51	(225)	(137)	(119)	
Cumulative	(3,502)	(3,920)	(3,033)	(725)	(2,073)	(1,817)	(1,973)	240	255	(742)	(2,076)	

Notes:

- (i) Cabernet incurred a loss of £202,290 for the period 8th May 2003 to 31st December 2003 (the year of its establishment). Separate accounts for Aurigny and Anglo Normandy for this period are not available.
- (ii) Cabernet incurred charges between 2004 and 2008 amounting to £343,825 relating to the writing-down of goodwill.

APPENDIX 3

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE TREASURY AND RESOURCES DEPARTMENT

AND

THE AURIGNY GROUP

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE TREASURY AND RESOURCES DEPARTMENT AND THE AURIGNY GROUP**

1. Purpose

The Minister and Deputy Minister of the Treasury and Resources Department are joint shareholders, on behalf of the Department, of all issued shares in Aurigny Air Services Limited and Anglo Normandy Aeroengineering Limited (the Aurigny Group).

The Treasury and Resources Department has been mandated by the States of Deliberation inter alia: to advise the States on matters relating to the allocation and administration of all States resources; and, to be responsible for the shareholders' functions and duties in respect of the States Trading Companies, including the Aurigny Group.

The purpose of this document is to formalise the relationship between the Treasury and Resources Department of the States of Guernsey ("the Shareholder") and the Aurigny Group ("the Company") by detailing the protocols to be observed in their on-going relationship and setting out the expectations, rights and duties of both parties.

2. Scope

This Memorandum of Understanding covers the current expectations placed on the Company by the Shareholder and details the documentation, levels of disclosure and contact expected to enable the Shareholder to discharge its duties and to ensure that the Company discharges its corporate governance duties. It also sets out the institutional arrangements that the Shareholder has established to exercise its role and responsibilities as shareholder in the Company. It details the objectives of the Company agreed between the Board of the Company and the Shareholder and establishes arrangements setting out how the Company will report its performance against those objectives.

The Shareholder and the Company each acknowledge that it is in their mutual interest for each to act at all times having regard to the best interests of the Company.

This Memorandum of Understanding shall not act so as to enable or authorise the Shareholder or the Supervisory Sub-Committee (see section 3 below) to act in any manner which might constitute either or each of them (including employees, servants or members of such bodies) being capable of being regarded as a "Shadow Director" within the meaning of Section 132 of the Companies (Guernsey) Law, 2008.

3. Supervisory Sub-Committee

The Shareholder has established a Supervisory Sub-Committee ("the Sub-Committee") which has been charged with the following objectives:

- Establish clear shareholder objectives for the Company;
- Monitor the Company's performance against appropriate industry benchmarks and quality standards to ensure that the Company delivers cost-effective and innovative services which are responsive to their customers' needs and that the Company operates efficiently and responsibly in the best interests of the community;



- Ensure that the Treasury and Resources Department is an effective shareholder in the Company; and,
- Seek value and an appropriate return that provides best value to the Guernsey economy from the Company for the community, whilst striking a balance with the enabling role the Company plays in supporting the Island and its social, economic and environmental objectives for the long-term benefit of the Island and its community.

The Shareholder has established the following specific terms of reference for the Sub-Committee:

- Establish clear shareholder objectives for the Company, including but not limited to areas such as pricing and pricing controls, dividend policies, financial performance, quality of customer service, corporate governance, sustainability, reputation and compliance with environmental standards;
- Establish the financial, operational and strategic parameters within which the Company can operate with and without reference to the Shareholder;
- Engage with the Company on financial matters and hold it to account in terms of its performance against its business plan and shareholder objectives; and,
- Scrutinise the process employed for the appointment of the Company's Chairman, non-executive directors and executive management team.

The Shareholder will appoint a Shareholder Liaison Officer who will act as the principal point of liaison between the Shareholder, the Sub-Committee and the Company on a day-to-day basis. The Shareholder Liaison Officer will assist and support the Company in meeting its obligations under this Memorandum of Understanding and will provide a sounding board for the Company and their Executive Directors on matters of shareholder interest.

The Shareholder and the Company agree that the costs reasonably incurred by the Shareholder in exercising its oversight responsibilities for the Company through the Sub-Committee and the Shareholder Liaison Officer will be charged to the Company. These costs will be fairly apportioned between the Company and the other companies for which the Department acts as shareholder on behalf of the States. The Shareholder will provide an estimate to the Company of its anticipated costs and proposed apportionment for each calendar year no later than 30th October of the preceding year.

4. States Strategic Guidance

In 2003, following consideration of a States Report¹ from the former Advisory and Finance Committee, the States of Guernsey agreed² to purchase the Company so that the States could ensure the continuing operation of the former British Airways services between Guernsey and Gatwick by Aurigny. The purchase was conditional upon Aurigny securing a legally enforceable right to appropriate British Airways' slots to operate Gatwick services to and from the Island, which it subsequently did.

In making the purchase, the States agreed that the acquisition of the Company was a strategic investment in an operation that would be of considerable value in protecting the Island's long-term social and economic sustainability by securing access to a London hub airport. Whilst this was the express intention of the recommendations in the States Report, the Report did note that Aurigny had "...a long history of serving the Bailiwick on the essential inter-island routes which also needed to be safeguarded".

¹ Billet d'Etat XI of 2003 – Security of Air Links

² Resolution 1 of Billet d'Etat XI of 2003

5. Shareholder Objectives

The Shareholder has established and agreed shareholder objectives with the Company. These are set out in Schedule 1, which also sets out the Key Performance Indicators and other criteria on which the Company will report to demonstrate its performance against these shareholder objectives.

Schedule 1 will be updated from time to time to take account of any changes in objectives or performance metrics agreed between the Shareholder and the Company.

The Company will commission a triennial external efficiency review of its operations, the arrangements and terms of reference for which will be subject to the approval of the Sub-Committee. The company will be responsible for meeting the costs associated with this review.

The Company will establish and maintain an independent User Body to supplement existing methods of communication with its customers. The User Body will provide an opportunity for the company's customers to convey to an independent body issues, ideas and observations on the provision of its services.

6. Documentation

The Company will provide the Shareholder with the following documented information:

- a) An annual confidential Shareholder Report which should cover, as a minimum, the following areas:
 - A review of the Company's performance against its key objectives and strategic goals;
 - A brief description of the principal challenges and other relevant issues that the Company has dealt with in the preceding year;
 - A review of the principal risks being managed by the Company and the steps being taken to mitigate against these;
 - The results of the Board effectiveness review; and,
 - An overview of the work over the year of the Audit Sub-Committee, the Remuneration Sub-Committee and the Board Nominations Committee, or such sub-committees, however combined, named or constituted which fulfil the tasks and roles of the above named sub-committees.
- b) An annual confidential Remuneration Report, including disclosure of the remuneration package for each of the Executive Directors, including any bonuses paid and their basis;
- c) The Company's annual report and accounts;
- d) An annual transparency report (the content and format of which will be agreed and reviewed with the Company from time to time);
- e) An annual business plan and periodic strategic plans, drafts of which should be submitted to the Shareholder before finalisation;
- f) Quarterly KPIs and financial performance reports, including P&L, Balance Sheet and Cashflow (to date and forecasts).



A timetable showing the timing of the submission of these reports is shown at Schedule 2. It is acknowledged that some of the documentation set out above and not specifically marked as confidential will contain confidential and/or commercially sensitive information which will not be appropriate for publication.

7. Meetings and Liaison

The following annual calendar of Shareholder contact should continue for the term of this Memorandum of Understanding:

- a) Annual meeting between the Board of the Treasury and Resources Department, the Sub-Committee and representatives of the Company (to include the Chairman, Chief Executive and Finance Director) to review and discuss the annual Shareholder Report, the Annual Report and Accounts, the Remuneration Report and the Transparency Report;
- b) Annual meeting between the Sub-Committee and representatives of the Company (to include the Chairman, Chief Executive and Finance Director) to review and discuss:
 - Strategic issues, including company performance;
 - Financial matters, including the latest management accounts;
 - Risk and assurance issues;
 - Current or upcoming events and issues;
 - Development of and updates to the strategic plan for the following calendar year; and,
 - Development of and updates to the strategic plan for the following calendar year.
- c) Annual AGM (this may be combined with (a) above).

A timetable showing the timing of these meetings is included in Schedule 2.

Regular dialogue and liaison will be maintained between the Company and the Shareholder Liaison Officer to ensure that there are “no surprises” for either party and to ensure that any matters which may have political implications can be discussed with the Shareholder in advance.

8. Matters to be Referred to the Shareholder

From time to time matters will need to be referred to the Shareholder, either for approval or for information. Those matters that are reserved for decision by the Shareholder are set out in Schedule 3.

Prior sight should be given to the Shareholder, for information only, of any press release that deals with a significant announcement (on the basis that there should be “no surprises” for either party).

9. Corporate Governance Issues

The Shareholder is required by the States to ensure that the Company complies with best practice on corporate governance, including financial management and controls and, as such, the Shareholder will expect the following minimum requirements to be in place within the Company:

Appointment of Non-Executive Directors and Executive Directors



The appointment of the appropriate Non-Executive and Executive Directors is essential to the performance of the Board and to the Shareholder in achieving its objectives. Therefore, there should be a formal, rigorous and transparent procedure for the appointment of new Non-Executive and Executive Directors to the Board, which should be agreed beforehand with the Shareholder.

All such appointments shall be in accordance with the Company's Articles of Incorporation and any relevant legislation.

Any new Non-Executive Director appointments will need to be approved by the Shareholder upon the recommendation of the Company.

The guidance from the Shareholder is that there will be a general presumption that Non-Executive Directors will serve for six years (i.e. two terms of three years). The Company's Board may request the Shareholder to agree to the reappointment of a Non-Executive Director for a third three-year term where such a reappointment would be in the best interests of the Company, having regard to the Non-Executive Director's performance, contribution and the need for continuity. Where such a request is made, the Shareholder will normally respond positively. It is most unlikely that the Shareholder will consent to a further reappointment beyond the nine year period.

Audit Committee

The Company will maintain an Audit Committee which will meet at least biannually. The annual results of their work and considerations should be included in the Shareholder Report.

Internal Control

A sound system of internal control (including financial, operational and compliance controls) and risk management must be in place to ensure effective governance of the Company's finances and resources.

The Company will be expected to conduct a review of the effectiveness of the system of internal control at least annually and to document the above review as part of the annual Shareholder Report.

Remuneration and Nominations Sub-Committee

There should be a formal and transparent procedure for developing policy on executive remuneration and for framing the remuneration packages of individual directors. No director should be involved in deciding his or her own remuneration.

Levels of remuneration should be sufficient to attract, retain and motivate directors of the quality required to run the Company successfully while avoiding paying any more than is necessary for this purpose. A proportion of Executive Directors' remuneration should be structured so as to link rewards to corporate and individual performance.

The Shareholder will expect to see full disclosure Remuneration Reports, in respect of each Director, within the annual Confidential Remuneration Report.

The process for appointing new Non-Executive Directors will be subject to the approval of the Shareholder. Evidence of periodic, thorough and effective skills analyses undertaken by the Company's Remuneration and Nominations Sub-Committee and supported by its Board prior to recommendations being put forward to the Shareholder will need to be demonstrated.



Periodic Review of Company Articles of Association

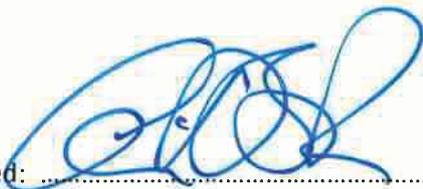
The Company and the Shareholder shall co-operate to review periodically, but at least once every five years, the Company's Articles of Incorporation to ensure that they are fit for purpose and take due regard to changes in company legislation and other relevant legislation and the needs of the Company and the requirements of the Shareholder generally.

10. Dividend Policy

The Shareholder will issue periodically guidance to the Company setting out its expectations in respect of dividends. The Company's Board will recommend the dividend for approval by the Shareholder at the Annual General Meeting, taking into account any such guidance, as well as the Company's strategic plans, its investment plans and available financial resources, its current and projected future debt levels and the overall best interests of the Company.

11. Period of Memorandum of Understanding

This Memorandum of Understanding will be reviewed after a period of three years from the date of its signature.

Signed: 
For and on behalf of the Treasury and
Resources Department

Name: GAVIN ST. PIER

Title: MANAGER

Date: 2ND JUNE 2015

Signed: 
For and on behalf of the Aurigny Group

Name: R. M. DARRBY

Title: CEO

Date: 6th June 2015

SCHEDULE 1

SHAREHOLDER OBJECTIVES AND KEY PERFORMANCE INDICATORS

Area	Shareholder Objective	Indicators
Operational	<ul style="list-style-type: none"> • Maintain and operate 6 pairs of slots at Gatwick Airport • Maintain a capability to service Alderney • Ensure 89% of departures leave within 15 minutes of scheduled departure time • Develop/implement interline/codeshare capability, subject to the submission and acceptance of a satisfactory business case to the Shareholder 	<ul style="list-style-type: none"> • Total pax carried (monthly vs prior year) • LGW load factors (percentage of flights per month operating at 100% and report by exception on flights operating beyond 95%) • System wide punctuality report (3 month rolling average by aircraft type) • System wide cancellations (3 month rolling average of operated flights vs planned schedule by aircraft type) • LGW cancellations report (3 month and 12 month rolling averages of operated flights vs planned schedule)
Commercial & Financial	<ul style="list-style-type: none"> • Achieve a breakeven position for the Aurigny Group on a full profit and loss basis, excluding agreed exceptional one-off costs and losses incurred in operating lifeline services to and from Alderney agreed with the Shareholder • Optimise the airline's operating cost base, with no real-terms increase in controllable costs per available seat kilometre compared to 2014 • Offer 63% of seats on LGW services at £67.22 or less in 2015 	<ul style="list-style-type: none"> • EBITDA, EBIT and P&L • System wide passenger yields (monthly and year to date) • LGW passenger yields (monthly and year to date) • Costs per available seat kilometre (controllable and non-controllable) • System wide revenue per available seat kilometre • Cash .vs. budget • Monthly sales .vs. prior year • Monthly revenue .vs. prior year • Seat sales by fare value
Safety	<ul style="list-style-type: none"> • Maintain a licence/capability to operate 	<ul style="list-style-type: none"> • Ensure there are no level 1 CAA audit findings
Customer/Island Reputation	<ul style="list-style-type: none"> • Support and maintain communications and travel options for local businesses, tourism and citizens • Establish Quality of Service Survey by Q3 2015 	<ul style="list-style-type: none"> • Total destinations served • No of scheduled flights per week • Biennial customer satisfaction survey/report • Complaints per 1000 flights • QSI Survey Results

SCHEDULE 2**Timetables****Timetable for the Submission of Reports and Documentation**

Item	Frequency	Guide Date
Shareholder Report	Annual	30 th June
Remuneration Report	Annual	30 th June
Annual Report & Accounts	Annual	30 th June
Strategic Plan	Annual	3 months before the start of the financial year
KPIs & Financial Performance Reports	Quarterly	Within 6 weeks of quarter-end
Transparency Report	Annual	30 th June

Timetable for Meetings

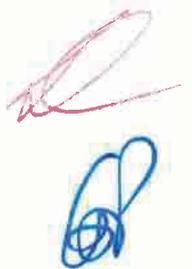
Meeting	Topic	Guide Date
AGM/T&R Board	Shareholder Report; Remuneration Report; Annual Report & Accounts; Transparency Report	November/December
Supervisory Sub-Committee	Strategic issues, including company performance; financial matters, including the latest financial performance reports; risk and assurance issues; current or upcoming events and issues; annual business plan	March/April

MATTERS FOR REFERRAL TO THE SHAREHOLDER**THE FOLLOWING MATTERS ARE RESERVED TO THE SHAREHOLDER FOR ITS DECISION / APPROVAL:**

1. Allotment and transfer of Company shares;
2. Alteration of the Company's Share Capital;
3. Appointment and Remuneration of Non-Executive Chairman and Non-Executive Directors;
4. The removal of any Non-Executive Director;
5. Annual Strategic Plan and any material derivations from it;
6. Determination of dividend policy;
7. Approval of a dividend;
8. Determination of group capital structure, return on investment and dividend policy
9. Approval of the annual report to the shareholder and the accounts;
10. Alteration of the company's memorandum and articles of association;
11. Appointment, reappointment or removal of the external auditor;
12. Appeals against any decision of the Guernsey Competition and Regulatory Authority.
13. Establishment of any subsidiary companies;
14. Material litigation prosecuted or defended by the Company;
15. Acquisitions and disposals of corporate entities greater than £250k;
16. Material investments or divestments greater than £500k (including long-term aircraft leases);
17. Merger with, or takeover by, another company;
18. Change of company name;
19. Winding up of the company;
20. Matters that will not generate a commercial return, but may fulfil other social, economic or environmental objectives;
21. The entry into new markets, or the introduction of new products, outside the core business.

The company is also required to bring all matters which have the potential to attract political interest to the shareholder's attention prior to them being made the subject of any formal media releases. As examples these will include but not be limited to:

1. Closures
2. Potential industrial action
3. Material service issues
4. Redundancies



(N.B. The Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as defined in Billet d'État IV of 2011.)

The States are asked to decide:-

XII.- Whether, after consideration of the Policy Letter dated 9th September, 2015, of the Treasury and Resources Department, they are of the opinion:-

1. To approve the establishment of a capital vote charged to the Capital Reserve to fund:
 - a) the recapitalisation of Cabernet Ltd in respect of cumulative losses of £19.9m up to 31st December, 2014;
 - b) the recapitalisation of Cabernet Ltd in respect of its forecast losses of £5.3m for the years 2015 to 2017;
 - c) the cost of the independent review undertaken by BDO set out in section 6.2 of that Policy Letter in the sum of £27,500.
2. To authorise the Treasury and Resources Department to provide short-term borrowing facilities to the Aurigny Group.
3. To direct the Treasury and Resources Department to report to the States of Deliberation with details of any short-term borrowing facilities provided to the Aurigny Group within six months of their provision, explaining the need for the facility.

TREASURY AND RESOURCES DEPARTMENT**AMENDMENTS TO THE COMPULSORY ACQUISITION OF LAND (GUERNSEY)
LAW, 1949**

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

11th August 2015

Dear Sir

1. Executive Summary

- i. The Treasury and Resources Department ("**the Department**") has become aware that there are some provisions of the Compulsory Acquisition of Land (Guernsey) Law, 1949, as amended ("**the Law**"), that require amendment, in order to avoid ambiguity. The proposed amendments do not introduce any new powers but simply clarify existing provisions and help ensure that the Law remains accessible and unambiguous. The provisions that require amendment are detailed in this Policy Letter. The Department would also like to prescribe the fees charged in respect of assessment of compensation proceedings in the event that a compulsory purchase order is made.
- ii. Where compulsory acquisition powers need to be exercised, it is important that the legislative provisions are unambiguous. The Department is therefore recommending the enactment of legislation so as to amend the Law and prescribe the necessary fees.

2. Proposals

- a) Rentes
 - i. There are currently several references made to "*rentes*" in the Law. For example, under the Law's compensation rules for assessing the amount of compensation payable in the event of a compulsory acquisition order, paragraph 9(8) of Schedule 1 to the Law, requires that the compensation payable is "*expressed in 'rente' at the rate of one quarter to each twenty pounds of the amount*". There are further references to *rentes* in the transfer of rights, and compensation provisions, under sections 2 and 9 respectively of the Law.

- ii. By way of background, under Guernsey Law, a *rente* is a charge against real property which generally comprised of an obligation to pay a certain amount in kind (usually wheat, barley or oats). Historically, *rentes* were used as a means to secure borrowing against land or purchase land. Due to inflation, *rentes* are of trivial value. In practice, new *rentes* are not created and conveyancing documents do not express the value of property in *rentes* (unless the property is still subject to *rentes*). Most people would therefore not understand the meaning of *rentes*, or what value it represented.
 - iii. In the event that a compulsory acquisition order is made under the Law, the amount of compensation payable should be clear, with no room for confusion or misinterpretation. It is for this reason that the Department recommends that the Law is amended so that references to "rentes" are repealed from the Law, and that the amount of compensation payable in respect of the value of, or interest in, any land acquired by the States under an Order under the Law, is expressed in pounds sterling, and not in *rentes*. The Department recommends that the Law is amended accordingly.
- b) Arbitrator/umpire fees
- i. In the event that an assessment of compensation is required further to a compulsory purchase order, two arbitrators and an umpire need to be appointed under the compensation and arbitration provisions set out in Schedule 1 to the Law.
 - ii. Under paragraph 11(5) of Schedule 1 to the Law the fees charged in respect of proceedings before the arbitrators and the umpire are prescribed by Ordinance.
 - iii. It appears that fees have not yet been prescribed and therefore the Department would like to take this opportunity to prescribe the fees by Ordinance so that there is clarity on this point. The Department recommends that the fees (including any expenses) to be charged in respect of any such proceedings shall include only reasonable fees and expenses as are appropriate in the circumstances. If there is any question as to what reasonable fees or expenses are appropriate, the Department recommends that the Royal Court should determine the matter following application from the parties, which would be consistent with its existing functions under the Law.
- c) Technical clarification
- i. There are a number of procedural requirements set out in Schedule 2 to the Law which are necessary before a compulsory purchase order can be made. One of the requirements under paragraph 4(3)(a)(ii) of Schedule 2 is that the negotiations that have taken place between the person interested in the land (i.e. including the owner, tenant or occupier) and the department have been unsuccessful.

- ii. The intention has always been that the negotiations are between the interested party and the *acquiring department* (i.e. the department that will, on behalf of the States, acquire, take possession of, or take control of the use and/or access to the land by way of an Order under the Law). The Law Officers of the Crown have advised that it would be sensible to make a small technical amendment to paragraph 4(3)(a)(ii) of Schedule 2 to the Law in order to clarify this intention and put this matter beyond any doubt. The Department therefore recommends that the Law is amended accordingly.

The proposed amendments detailed above do not introduce any new powers but simply clarify existing provisions and help ensure that the Law remains accessible and unambiguous.

3. Resource Implications

There will no implications for cost and resources other than those involved in the drafting and processing of the legislation.

4. Consultation

The Law Officers of the Crown have been consulted in relation to the preparation of the proposals and support the legislation proposed.

5. Recommendations

The Department recommends the States to:

- i. agree to the proposals detailed in section 2 of this Policy Letter.
- ii. direct the preparation of such legislation as may be necessary to give effect to the above decision.

Yours faithfully

G A St Pier
Minister

J Kuttelwascher
Deputy Minister

A H Adam
R A Perrot
A Spruce

Mr J Hollis (Non-States Member)

(N.B. The Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as defined in Billet d'État IV of 2011.)

The States are asked to decide:-

XIII.- Whether, after consideration of the Policy Letter dated 11th August, 2015, of the Treasury and Resources Department, they are of the opinion:-

1. To agree to the proposals detailed in section 2 of that Policy Letter.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

TREASURY AND RESOURCES DEPARTMENT

MISCELLANEOUS AMENDMENTS TO INCOME TAX LEGISLATION

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

18th September 2015

Dear Sir

1. Executive Summary

This Report proposes a number of amendments to income tax legislation as set out below:

- 1.1 In order to continue the programme of simplifying the Guernsey tax system, it is proposed that customers¹ of the Income Tax Office will no longer be required to appeal against an interim (estimated) assessment. Provisions will be enacted permitting a customer who has been issued an interim assessment to request a suspension of part or the whole of the tax charged, if they consider it to be excessive, pending submission of the relevant tax return, along with a right of appeal, in the event of disputes. To deal with instances where a customer, who has been issued an interim assessment, fails to file a return for the relevant year within the time allowed, it is also proposed that The Income Tax (Guernsey) Law, 1975, as amended, (“the Income Tax Law”) be revised to enable the Director of Income Tax (“the Director”) to issue the person concerned with a final assessment (including estimates, as required), against which there would be a right of appeal.
- 1.2 That the Regulations governing the operation of the ETI Scheme be amended to require that coding notices, direction notices and other correspondence relating to the operation of the ETI Scheme, that pass between the Director and employers, should be transmitted by electronic means, unless, at his discretion, the Director agrees an alternative, in the case of any particular employer.
- 1.3 That section 62AC of the Income Tax Law, which was repealed with effect from 1st January 2013, be reinstated.

¹ Throughout this Policy Letter, “customer” is used to describe all users of the services provided by the Income Tax Office, including all tax-payers.

- 1.4 That the Income Tax Law be revised to authorise the Director, in his sole discretion, to make a payment to a person who provides information (subject to procedures to be set out by the Director in a Statement of Practice) which aids an investigation by the Director and leads directly to the recovery of taxes which have been unpaid due to evasion of tax, by another person.
- 1.5 To reduce the burden for customers, the Director is expanding the number of customers who will not be required to complete an annual return of income. It is proposed, therefore, that the Income Tax Law is amended to provide that in specified cases the contents of the assessment, issued by the Director, are treated as if they were the contents of a return made by that customer. The Income Tax Law would then also place an obligation on the customer to notify the Director of any deficiencies, errors or other irregularities contained in the assessment, so that the Director is given the opportunity to revise the assessment to correct those. Any customer who receives an assessment that contains such deficiencies etc, and who did not notify the Director, would be treated, under the Income Tax Law, as having filed an incorrect return, in the event that the Director subsequently becomes aware of those deficiencies etc.
- 1.6 To amend both the Income Tax Law and:
- (i) the States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005;
 - (ii) the Housing (Control of Occupation) (Guernsey) Law, 1994; and
 - (iii) the Right to Work (Limitation and Proof) (Guernsey) Law, 1990;
- together referred to as “the Housing Legislation”, in order to provide for the exchange of information, between the Director and the Housing Department, and vice versa, for the purpose of ensuring the more efficient administration of that legislation.
- 1.7 To amend the Income Tax Law to make it clear that following the issue of an additional assessment, a right of appeal exists only in relation to the additional aspects of the assessment, and not to the elements that were in previous iterations of the assessment in respect of which the appeal process has already been exhausted, or the right to appeal has otherwise expired.
- 1.8 To amend section 51(5) and section 51A (2A) of the Income Tax Law to entitle an individual who is non-resident, or who is resident but not solely or principally resident, for income tax purposes, to 1/52nd of the annual amount of personal allowances to which a person who is solely or principally resident would be entitled, for each 7 days that they are in receipt of a Guernsey Old Age Pension, subject to the other provisions of those sections.

2. Report

2.1 Interim assessment procedures

Background

- 2.1.1 Section 73(2)(a) of the Income Tax Law permits the Director of Income Tax to issue, in respect of any source of income, an interim assessment for a year of charge to any person, at any time after the commencement of that year, on the estimated amount of their income for the whole of that year. In accordance with section 81(1), tax charged in an interim assessment is payable in two equal instalments. The first instalment is due on or before 30th June in that year, or within 30 days of issue, if the interim assessment has not been made before 1st June in that year. The second instalment is due on or before 31st December in that year, or within 30 days of issue, if the assessment is made after 1st December in that year.
- 2.1.2 Approximately 5,000 interim assessments are issued, normally in May, each year, mostly to those individuals who are self-employed or have significant investment income, or other income which does not have tax deducted at source. Interim assessments are not issued to persons such as the employed/pensioners, whose tax liability is met substantially by deductions at source (e.g. under the ETI Scheme).
- Interim assessments are also issued to companies with income taxable at the intermediate (10%) or higher (20%) company rates.
- 2.1.3 The purpose of the interim assessment procedure is to ensure timely collection of tax during the year in which the income accrues (because tax is due to be paid at the end of June and the end of December in the relevant year) in advance of the relevant tax return being filed.
- 2.1.4 In the normal course of events, a person receiving an interim assessment will lodge an appeal within the 30 day time limit prescribed by section 76 and make a suggestion to the Director of the amount of tax that should be paid on account of the ultimate liability, if they believe the interim assessment to be too high (or, indeed, too low). It is at the Director's discretion whether such an application is accepted, although, as most applications are made on a reasonable basis, rejections of applications are rare. Underpayment of tax on an interim assessment, subsequently found to have been due, may result in late payment surcharges being imposed at a later date, and so most customers do not make requests for excessive suspension of tax. Tax advisers generally lodge "bulk" appeals against interim assessments on behalf of their clients. Many unrepresented customers will lodge appeals on their own behalf. Once the relevant tax return has been filed, the interim assessment is then revised (to become a "final assessment") and the customer will make a payment of any

additional tax due, or receive a repayment of any amount overpaid. Recognising that not everyone is represented by a tax adviser, and may not understand the appeals process, it has been the practice of the Director, and his predecessors, over many years, to revise interim assessments after receipt of a return, notwithstanding that a formal appeal may not have been lodged. This has been a convenient administrative practice to ensure that customers are not left with excessive tax bills due to their lack of understanding of the appeals system.

Proposals

- 2.1.5 In light of this administrative practice, the Department has reviewed the desirability of continuing with the existing statutory appeals process in relation to interim assessments, and the present regime under which a customer could seek a deferral of payment of part of the tax charged in the interim assessment. The purpose of the review was to determine whether the legislation, and the consequent administrative processes linked to it, could be revised in the interests of achieving greater simplicity and easing administrative burdens for customers, as well as the Income Tax Office (which currently has to process several thousand such appeals each year, most of which are subsequently resolved simply by the affected person filing the relevant tax return).
- 2.1.6 The Department and the Director firmly believe that there needs to be certainty, both for the customer and the Income Tax Office, in what amounts will be payable following the issue of an interim assessment. For example, absent express conditions, and if the appeal provisions were repealed for interim assessments, some customers may not take action to make a recommendation for deferral of part of the tax charged in the interim assessment until the tax is already overdue and collection enforcement procedures are underway, which may interfere with the proper collection of tax. Whilst, arguably, the provisions of the late payment surcharge regime would mitigate against such behaviour, it would seem reasonable, if the necessity to appeal was to be removed (and replaced with an obligation on the Director to revise the assessment, to a final assessment, on receipt of the relevant return), for any request for suspension of part of the tax charged in the interim assessment to be made within a certain time frame. A common time frame within the Income Tax Law is 30 days (and, indeed, that is currently the time allowed for a customer to lodge an appeal against an assessment), although provision could be made for the Director to admit requests made outside of that period, if he considered it appropriate to do so (the granting of such an extension being at his discretion).
- 2.1.7 There could be occasions when a customer requests suspension of all or part of the tax charged in an interim assessment, but the Director believes that the request is excessive. At present, because suspensions of tax are

currently at the discretion of the Director, there is no right of appeal against a refusal to defer payment of tax (although there may be a right to judicial review or appeal under the Administrative Decisions Law). The Department believes, therefore, that if the provisions relating to appeals against interim assessments are to be repealed, there should be an express provision introduced into the legislation permitting a right of appeal to the Guernsey Tax Tribunal against a refusal by the Director to defer payment of tax charged in an interim assessment (because, at present, a customer could appeal against an interim assessment and, as a consequence of that appeal, the Tribunal could reduce the amount of the interim assessment – based on evidence given during the appeal hearing by the appellant – which would, in turn, reduce the amount of tax payable under the interim assessment).

2.1.8 The removal of the appeal provisions in respect of interim assessments would create a practical issue, however, in respect of those (albeit relatively few) customers who receive an interim assessment but then fail to submit the relevant return within the time allowed. Under the present mechanism:

- (i) if an appeal had been lodged against the interim assessment, that would be listed for a hearing by the Guernsey Tax Tribunal, and if the customer continued to fail to file the return, the appeal would probably be dismissed and the assessment confirmed; or
- (ii) if an appeal was not lodged, the tax in the interim assessment would be pursued and, if the Director considered it appropriate, an additional assessment would be issued.

2.1.9 In order to deal with the above, the Department proposes that, combined with the proposals above, a new procedure be introduced into the Income Tax Law whereby, at a time determined by the Director, for those customers who have received interim assessments but have not filed their returns (notwithstanding that the time limit for filing the returns had passed), the Director may issue a final assessment (including further estimates, as required) and would then pursue any tax owing on that final assessment, any deferral of collection being solely at his discretion. If the customer appealed the final assessment, that appeal would be listed for a hearing by the Guernsey Tax Tribunal, and if the Tribunal dismissed that appeal the assessment would then be “final and conclusive” under section 79(2) of the Income Tax Law (and would thereafter not be revised, even if the relevant return was subsequently submitted).

2.1.10 One significant advantage of a system as set out above is that instead of the Income Tax Office having, potentially, several thousand appeals against interim assessments to deal with each year, the number of appeals would be limited to those customers who received interim assessments and who

then failed to submit their returns (in recent years this has been approximately 80 persons per annum only) and any customers who have a dispute with the Director over a refusal by him to agree a request for deferral of payment of tax charged in an interim assessment (and based on historical experience, this is expected to be the exception rather than the rule). In addition, customers who do not wish to request a deferral of any of the tax payable in an interim assessment, because they are prepared to accept it as a reasonable estimate of their likely final liability, will know that, notwithstanding that they have not submitted an appeal to the Director, their assessment will be revised when their return is submitted, as a consequence of the operation of the Income Tax Law, rather than relying on administrative practice, which is the case at present.

- 2.1.11 For the avoidance of doubt, the proposal would be that in the case of a final assessment, deferral of tax charged in the assessment would only be at the discretion of the Director (as is currently the case for all kinds of assessments). The right to have recourse to the Tribunal in relation to a refusal to agree a deferral of tax would only exist in connection with an interim assessment. This would be for the reason that, in relation to an interim assessment, there would be no right of appeal against the assessment itself, but in the case of a final assessment such a right of appeal would continue to exist. In this way, the customer will not be disadvantaged, overall.
- 2.1.12 The Taxation Sub-Committee of the Guernsey Society of Chartered and Certified Accountants has been consulted in respect of this proposal, as its members and their clients would be affected by it, and has indicated that it has no substantive concerns, and appreciates the administrative savings that would accrue to customers and the Income Tax Office.

The members of the Guernsey Tax Tribunal have also been consulted and have agreed that the proposals are reasonable and a better use of the Tribunal's resources.

- 2.1.13 In summary, the Department proposes:
- 2.1.13.1 that the right of appeal, in respect of a person who is aggrieved by an interim assessment, is repealed;
 - 2.1.13.2 that, subject to 2.1.13.5 below, the Income Tax Law should specify that an interim assessment would be revised to become a final assessment, once the relevant return had been filed, notwithstanding the absence of an appeal;
 - 2.1.13.3 that provisions be enacted permitting a person served with an interim assessment to request a suspension of part or the whole of the tax charged in the interim assessment, if they consider it

to be excessive, such a request to be made within thirty days of the date of issue of the assessment (or longer, at the discretion of the Director);

- 2.1.13.4 that provision be made for disputes, in relation to a refusal by the Director to admit an application for deferral of payment, to be resolved by way of a hearing by the Guernsey Tax Tribunal;
- 2.1.13.5 that, in order to deal with instances where a person, who is served with an interim assessment, fails to file a return for the relevant year within the time allowed, the Income Tax Law be revised to permit the Director to issue the person concerned with a final assessment (including estimates, as required), against which there would be a right of appeal, but any request subsequently made for suspension of tax charged in that assessment would be admitted only at the discretion of the Director, with no right of appeal if such application is denied.

2.2 Electronic Communications under the ETI Scheme

Background

- 2.2.1 Under section 81A(4) of the Income Tax Law, the Department may make Regulations in relation to the operation of the ETI Scheme. Under section 81A(5), however, any such Regulations shall not have effect unless and until approved by Resolution of the States.
- 2.2.2 Since 2009, the Regulations have provided that where a document is required to be submitted to the Director, by an employer, that document shall be submitted by electronic means, or by such other means as the Director may require, in any particular case or class of cases. This has led to substantial administrative efficiencies in the operation of the ETI Scheme, whilst providing protection for those, relatively few, employers who, for whatever reason, do not have, or are unable to use, electronic methods for submitting documents to the Director, and who the Director has excused from this requirement.
- 2.2.3 There is no similar requirement to correspond using electronic means in relation to coding notices, direction notices or other correspondence relating to the ETI Scheme, which pass from the Director to the employer, or from the employer to the Director, however.

Proposals

- 2.2.4 The Department believes that permitting the Director to require an employer to accept coding notices, direction notices and other correspondence relating to the ETI Scheme, by electronic means, and

requiring employers to correspond in relation to such matters with the Director by electronic means, could give further efficiencies in the operation of the ETI Scheme.

- 2.2.5 Whilst, for many employers, routinely corresponding with the Income Tax Office electronically is already commonplace (because the majority already do so in relation to documents they are required to submit under the ETI Regulations), as noted above, this is currently voluntary.
- 2.2.6 The Department proposes, therefore, that the ETI Regulations should be revised accordingly, but should include a similar protection for those (exceptional) cases where the Director agrees, on a case by case basis, that it would be inappropriate to require electronic communication to and from an employer (and, in practice, the Department anticipates that this proviso would affect, in the main, those employers for whom a special arrangement already exists in relation to the submission, by them, of documents under the ETI Scheme).

2.3 Distributions by exempt, and related, companies

Background

- 2.3.1 Following the introduction of “zero 10”, and with effect from 29th April 2009, the general principle in the Income Tax Law has been that when a distribution was made by a company, or was deemed to be made by a company, that distribution was deemed to be received by the beneficial member of the company making the distribution (which may be a different person to the person actually receiving the distribution – for example, where there was a chain of companies between the company making the distribution and the ultimate beneficial owner).
- 2.3.2 In order to avoid administrative difficulties for Guernsey’s substantial fund industry (within which most exempt companies operate) a provision was introduced into the Income Tax Law – section 62AC – which provided that a beneficial member of an exempt company would only be taxable in respect of any actual or deemed distributions of the exempt company, or of any other company the shares in which were held by the exempt company, when they were paid by the exempt company (that is, distributions and deemed distributions related to shares held as assets of the exempt company would be ignored for this purpose unless actually paid out by the exempt company).
- 2.3.3 Following a decision by the EU Code of Conduct Group, that Guernsey’s deemed distribution regime was considered “harmful”, the States agreed that the provisions of the deemed distribution regime be repealed. As a consequence, a number of sections of the Income Tax Law had to be revised or repealed. One of the sections repealed was section 62AC.

- 2.3.4 It has become apparent, however, that repeal of section 62AC has left a potential residual issue in relation to the provisions of section 62AB of the Income Tax Law.
- 2.3.5 Under the provisions of section 62AB, and by way of an example, if the shares in a Guernsey resident company are owned by an exempt company (and for the purposes of the Income Tax Law an exempt company is treated as not resident in Guernsey) any actual distribution made by the resident company is deemed to have been made to the beneficial member of the exempt company. In effect, therefore, some of the issues that the enactment of section 62AC were designed to avoid remain, notwithstanding the repeal of the deemed distribution rules.

Proposals

- 2.3.6 For that reason, the Department proposes that the provisions of section 62AC be reinstated so that where an exempt company owns shares in another company, actual distributions by that other company, to the exempt company, are not treated as income of the beneficial member.

2.4 Payments for information

Background

- 2.4.1 Within the Income Tax Office, the primary responsibility for detecting and overseeing the investigation of tax evasion and avoidance is delegated, by the Director, to the Compliance & Investigation Unit (“CIU”).
- 2.4.2 The CIU uses a number of methods to identify cases which would warrant investigation. The aim is to identify cases where a positive result (by way of recovery of tax, late payment surcharges and penalties) is more likely than not and where the costs of making that recovery are outweighed considerably by the amount of the recovery itself.

These methods include, inter alia, the use of information received from one person who has knowledge relevant to the tax affairs of another.

Information currently received in this way is generally anonymous and so, even in those cases where the information could be potentially beneficial, there is often no way of making contact with the person providing the information, to seek clarification/additional information. Even if contact could be made, the person concerned may be reluctant to assist further.

- 2.4.3 In the United Kingdom, section 26 of the Commissioners for Revenue & Customs Act 2005 gives authority for payments to be made to persons providing information. The actual wording of the legislation is:

“The Commissioners may pay a reward to a person in return for a service which relates to a function of:

- (a) the Commissioners, or
- (b) an officer of Revenue & Customs.”

HM Revenue and Custom’s website contains the following explanation:

“You may receive a cash reward for your information. However, this will depend on what is achieved as a direct result of the information you provide and is awarded at the discretion of HM Revenue & Customs.”

Other similar regimes, albeit with variations, exist in other countries, such as the United States and Canada.

Applicability of such a scheme in Guernsey

- 2.4.4 As indicated above, the Director already receives information, of varying degrees of quality and, in some circumstances, he is unable to utilise it to its full extent.

It is probable, however, that there are other persons who will be aware of the tax evasion activities of Guernsey taxpayers, and if that information was provided to the Director this could enable the CIU to commence an investigation that otherwise may not be commenced or to progress an ongoing investigation more quickly and efficiently than would otherwise be the case. This could have the dual benefit of increasing general revenue whilst also reducing the amount of resources that the CIU has to invest in the actual investigation process. A facility for making payments to persons providing such information may increase the number of instances where this occurs.

- 2.4.5 In most cases, it is probable that any payment would be less than the amount of any late payment surcharges and penalties that the tax evader would be required to pay (in addition to the tax evaded). If, therefore, a system was introduced in Guernsey, similar to that existing in the United Kingdom, whereby, in certain circumstances, those providing information may receive a payment for the information provided, this should ultimately prove beneficial to the Island’s general revenue.

- 2.4.6 It is anticipated that such a system could operate in Guernsey as follows (and it is proposed that the following outline would be included in a Statement of Practice to be issued by the Director):

- 2.4.6.1 A person wishing to claim a reward would identify themselves to the Director at which point they would be expected to outline the nature of the information that they hold.
- 2.4.6.2 It would be made clear that no promise could be made in advance that a reward would be paid as this would depend solely upon the value of the information to any investigation, which could only be determined at the end of the investigative process. The person would also be advised that it would not be possible to advise them of the actual outcome of the investigation.
- 2.4.6.3 Nevertheless, if it was determined that their information was of significant benefit to the investigation, at the Director's discretion a reward may be paid, of up to 15% of the amount of tax actually collected as a consequence of the investigation, which had not been assessed previously, owing to omissions of income or other irregularities in another person's submitted income tax returns or owing to a failure by another person to submit a tax return in the first place. The reward would not, however, take into account any late payment surcharges or penalties which may be imposed. It is currently proposed that the maximum reward that could be paid in any single instance of information being provided would be limited to £250,000.
- 2.4.6.4 The person would then be asked to provide all of the information that they hold which they consider to be of relevance. If they wish to continue to be eligible for a reward, they would also have to undertake to answer reasonable requests from the Director for additional information which they hold and to provide clarification on the information they have already provided, if required.
- 2.4.6.5 The investigative process would then be undertaken and at the conclusion of that process, and once the additional amount of tax collected as an immediate consequence of the investigation, was known, the investigating officer would prepare a report for the Director in which he evaluated how useful the information was to the successful conclusion of the investigation, taking into account (as well as any other matter relevant to the case):
- (i) the amount of investigative time, and therefore resource, that provision of the information saved;
 - (ii) the amount of tax, late payment surcharges and penalties which were generated at the formal termination of the investigation and, in the case of the tax, the amount actually collected if different to the amount due, and the extent to

which they were directly attributable to the information provided;

- (iii) an overall evaluation of how useful the information received had been to the successful outcome;
- (iv) how co-operative the person had been in providing additional information/explanations if requested to do so; and
- (v) the investigating officer's recommendation of the level of reward, if any, that should be paid, subject to the limits set out in paragraph 2.4.6.3 above.

2.4.6.6 The Director would then consider the investigating officer's proposal and reach a conclusion on whether a payment should be made and, if so, the amount.

2.4.6.7 For the avoidance of doubt, in order to qualify for consideration of such a payment, the person seeking the reward would need to approach the Director voluntarily, and without prior prompting from the Director, providing details of the suspected evasion of income tax. A payment would not be made available to anyone who was approached by the Director and asked, formally or otherwise, to provide information concerning another person. In addition, payments would not be made to

- any person who came into the possession of the relevant information disclosed to the Director as a consequence of any function, duty or task that they may have undertaken for or on behalf of the States of Guernsey, or as a Member of the States, or as a non-elected Member of a States Department or other States entity; or
- members of professions who were under a professional or ethical obligation to make disclosure, or other persons in a corresponding position.

2.4.7 As any such system would amount to payments out of general revenue to a third party, such payments would have to be based upon an appropriate legislative provision authorising them to be made by the Director (such as is contained in the United Kingdom's Commissioners for Revenue & Customs Act 2005, as set out above).

Proposals

- 2.4.8 It is proposed that the Income Tax Law be revised to allow for payments to be made to a person who provides information, which facilitates an investigation by the Director and leads directly to the recovery of taxes which have been unpaid due to evasion of tax by another person, subject to conditions, within which the Director will exercise his discretion to make a payment (such as the maximum payment that may be made in any one instance), to be set out in a Statement of Practice by the Director.
- 2.4.9 The Income Tax Law would also be revised to provide that:
- 2.4.9.1 payments under the scheme are taxable;
 - 2.4.9.2 the Director be indemnified from any claim of breach of confidentiality, under the provisions of the Income Tax Law, in connection with any aspect of the administration of the scheme.
 - 2.4.9.3 the Director can lawfully use the information for the purposes of his functions under the Income Tax Law;
 - 2.4.9.4 the operation of the scheme will be without prejudice to the other powers available to the Director (including, for example, his powers to serve an information notice under section 75B of the Income Tax Law); and
 - 2.4.9.5 the information received is to be confidential and would be disclosed only in limited circumstances (e.g., for the investigation of crime or pursuant to an order of the court).

2.5 Assessments not based on income tax returns

Background

- 2.5.1 As part of the ongoing review of the income tax system, to identify efficiencies and to reduce administrative burdens, both for the taxpaying public and the Income Tax Office, the Director has identified a number of situations in which individuals could be relieved of the annual burden of completing an income tax return.
- 2.5.2 The first group of individuals to benefit from this are those who have the most straightforward tax affairs. For those individuals who receive only Guernsey employment income or occupational pensions (where the majority of tax due is already deducted under the provisions of the ETI Scheme) the Director already holds sufficient information, from periodic returns made by employers and pension providers, to be able to generate

assessments without the need for the affected individuals to complete a tax return. This process is already under way.

- 2.5.3 The Director is looking at ways of increasing the number of individuals who could be included in this group, however, and a number of other initiatives will assist in that. In December 2013, the States approved proposals for details of interest to be reported directly to the Director by Guernsey financial institutions. In addition, through the formal information gateway that exists between the Director and the Social Security Department, agreement has been reached for the Social Security Department to provide to the Director, on an annual basis, details of Guernsey Old Age Pension payments.

Going forward, therefore, where an individual's income consists only of one or more of:

- Guernsey employment income,
- Guernsey occupational pension,
- Guernsey bank interest,
- Guernsey Old Age Pension,

and they claim no allowance or deduction other than the basic personal allowances, the Director may be able to issue assessments without the need for that person to complete an income tax return each year.

- 2.5.4 These initiatives have the potential to have a considerable impact on the administrative obligations placed on a significant proportion of the taxpaying public, with consequent benefits for those individuals and the Income Tax Office.

Proposals

- 2.5.5 Such a move does come with an element of risk for general revenues, however, if the information available to the Director was incorrect (for example, because an employer or a financial institution had sent the Director information which was incomplete or otherwise erroneous, or if the Director was not aware of the full extent of someone's income, because an employer or a pension provider had not reported income under the ETI Scheme when they ought to have done so, or if the person being assessed had commenced to receive a source of income of which, at that time, the Director was unaware).

- 2.5.6 It can be anticipated that if a person received an assessment that was excessive (that is, it included more income than the person being assessed had received, or it included fewer allowances and deductions than those to which the person being assessed was entitled) then the assessed person may raise those issues with the Director. Many persons would do the same if the assessment did not reflect all of the assessed person's income, or if it overstated the allowances or deductions to which the person was entitled. There is a possibility, however, that not every person would do so, with a consequential potential loss to General Revenue. To minimise this risk, the Department proposes that the Income Tax Law be revised to provide a mechanism which would place an obligation on persons receiving an assessment, and who had been specifically relieved of the obligation to file an income tax return for the relevant year, to notify the Director of any deficiencies, errors or other irregularities contained in the assessment, and that the consequences for failing to do so would be the same as if the person concerned had made an incorrect or incomplete return.
- 2.5.7 In broad terms, it is proposed that the mechanism would work in the following way:
- 2.5.7.1 It would affect only those persons who had been notified by the Director, in writing, that they are excused from the requirement to make a return under the provisions of section 68 of the Income Tax Law, in respect of any year of charge.
 - 2.5.7.2 It would affect notices of assessment sent to persons referred to in the subparagraph above, issued under any provision of the Income Tax Law.
 - 2.5.7.3 The person receiving the assessment would be deemed to have made a return for that year of charge containing the same sources and amounts of income, and making the same claims to personal and other allowances, reliefs and deductions, as are contained in that assessment.
 - 2.5.7.4 If, within thirty days of the date of the issue of the assessment, the person assessed notified the Director, in writing, of any deficiencies, errors or other irregularities contained in the assessment (an "amending notice"), the return that he or she is deemed to have made, for that year, will be deemed to have been made in accordance with the amending notice given to the Director and so much of the assessment as remained unaltered (and no adverse tax consequences would arise for the person concerned, such as a liability to penalties).

- 2.5.7.5 If, for whatever reason, it has not been possible for the Director to revise the assessment within 30 days of receiving an amending notice, the Director would issue confirmation of receipt of the notice.
- 2.5.7.6 After discussion with the person concerned, if necessary, the Director may then make a further assessment on them, taking into account the contents of the amending notice, if he considers it appropriate to do so.
- 2.5.7.7 An amended assessment, or a confirmation of receipt of an amending notice referred to in sub-paragraph 2.5.7.5 above, issued by the Director, will be treated as conclusive evidence, for all the purposes of the Income Tax Law, that a return was made in accordance with the notice of assessment, as adjusted by the amending notice or as set out in the amended assessment (as the case may be).
- 2.5.7.8 It is proposed, however, that the Income Tax Law would make it clear that this provision does not in any way limit the power of the Director to make any enquiry into any aspect of a person's income tax affairs, make any assessment, impose any penalty or make any order or direction or exercise any other relevant function that is otherwise allowed by law.

2.6 Information Exchange between the Income Tax Office and Housing Department

Background

- 2.6.1 As a consequence of an Oath of Secrecy that has to be taken by every person working in the Income Tax Office, there are significant restrictions on the persons to whom the Director may give information which has been provided to him. In 2008, the Income Tax Law was amended to permit information to be disclosed to the Social Security Department or the Administrator thereof, to assist in their respective functions under the Social Insurance (Guernsey) Law, 1978 (or any other enactment conferring functions on them). Similarly, amendments were made to the Social Insurance Law to permit the Administrator to disclose information to the Director to assist him in carrying out his functions under the Income Tax Law.
- 2.6.2 Under data protection legislation, the Housing Department is not permitted to disclose information to persons outside of that Department, without the consent of the person to whom the information relates, except disclosures for the purposes of criminal proceedings or for the investigation of crime.

- 2.6.3 Whilst the purposes of the Income Tax Office and the Housing Department differ substantially, there are occasions when information held by one would be of assistance to the other, in discharging its official functions. One example is in investigating possible infractions of the island's Right to Work or Rent Rebate legislation and procedures, it may assist the Housing Department to have details of a person's income, or sources of income, which are available in the Director's records.

Proposals

- 2.6.4. The Treasury and Resources Department proposes that the Income Tax Law be revised to provide that the Director may pass information, which he has received in the exercise of his official functions and which he has reason to believe may assist the Housing Department in fulfilling its functions under the Housing Legislation, and the Housing Department may in turn use the information so provided for the purpose of carrying out those functions.
- 2.6.5 The Housing Department proposes that the Housing Legislation be similarly revised to allow the Housing Department to pass information, which it has received in the exercise of its official functions and which it has reason to believe may assist the Director in fulfilling his functions under the Income Tax Law; and the Director may in turn use the information so provided for the purpose of carrying out those functions.
- 2.6.6 In bringing forward these proposals, the Treasury and Resources Department is mindful of the States' 2013 Resolutions (Billet d'Etat XI, 2013 refers) concerning the replacement of the Housing Control regime with a Population Management regime. It is with these impending changes in mind that the Treasury and Resources Department also proposes that, for the reasons explained above, similar provision for the exchange of information is included in the future Population Management Law.

2.7. Appeals against Additional Assessments

Background

- 2.7.1 The Income Tax Law provides for different types of income tax assessment. For example, under section 73(2), the Director is empowered to issue interim and final assessments. Interim assessments are based on the Director's estimate of a person's liability and are normally issued during the early part of the year to which they relate, to ensure that the person assessed makes a payment on account of their ultimate tax liability for that year, during the course of the year (normally in June and December). Final assessments are normally issued after a person submits their tax return for the relevant year (and a final assessment may be a revision of a previous interim assessment, or a "stand alone" assessment, if

it has not been necessary for the Director to issue an interim assessment, as may be the case, for example if a person's tax liability is satisfied principally by deduction of tax under the ETI Scheme).

- 2.7.2 Whilst the vast majority of customers will only receive interim or final assessments, section 75 of the Income Tax Law provides for the issue of additional assessments in the event that the Director "... discovers that any income that ought to have been assessed has not been assessed, or that the assessment of any income is or has become insufficient" Additional assessments are used, for example, to enable the Director to assess additional tax as a consequence of attempted tax avoidance, errors, negligence and fraud, that come to his notice after the issue of a final assessment.
- 2.7.3 From time to time, a person may attempt to use the occasion of the issue of an additional assessment to reopen matters which were included in a previous assessment issued for the same year of charge, notwithstanding that an appeal against that earlier assessment may have been made and dealt with (either by agreement between the appellant and the Director, or by determination by the Guernsey Tax Tribunal), or if the person concerned failed to lodge an appeal against that earlier assessment during the time allowed by law.

Proposals

- 2.7.4 The Department considers that an additional assessment should create a right of appeal only in respect of the additional elements of the assessment, and not in respect of elements of the assessment that are unchanged from the earlier assessment, or which have been determined by the Guernsey Tax Tribunal following an appeal against the earlier assessment. In the case of determinations by the Tribunal, this may be inferred from section 79(2) of the Income Tax Law, which provides that (subject to the right of appeal to the Royal Court, in the event of a claim that the determination was erroneous in law), "... orders made by the Tribunal shall be final and conclusive". However, it may be argued that the issue of a subsequent, additional, assessment creates a new right of appeal against the whole of the assessment, notwithstanding section 79(2). The situation is arguably even less clear cut in the event that the person assessed simply failed to exercise their right to appeal against the earlier assessment. The Department believes, however, that the same consequences should follow if a person does not lodge an appeal within the time allowed by law, as would follow from a determination by the Tribunal, and that the issue of an additional assessment should not provide an opportunity to re-open matters which could otherwise no longer be appealed.
- 2.7.5 The Department proposes that the Income Tax Law be amended to put this beyond doubt on the face of the law.

2.8. Non-resident pensioners – entitlement to personal allowances

Background

- 2.8.1 Under section 51(5) of the Income Tax Law, an individual who is non-resident for Income Tax purposes is entitled to 1/52nd of the personal and other allowances to which a person who is solely or principally resident is entitled, for each 7 days they are in receipt of a pension from a Guernsey source, if the pension is taxable and subject to deduction of tax under the Income Tax Law (this covers occupational pension schemes). The allowances can only be offset against the pension concerned, and not against other sources of income. Section 51(7) also limits the total allowances that such a person may receive for any year to those that could be claimed by a person who is solely or principally resident (so that someone with a number of occupational pensions does not receive multiple entitlements to personal allowances for the same year). Section 51A(2A) extends this entitlement to allowances, with similar restrictions (in section 51A(3)), to persons who are resident but not solely or principally resident.
- 2.8.2 At present, the entitlement to personal allowances, as set out above, does not extend to such recipients of the Guernsey Old Age pension because, although it is a taxable source of income in Guernsey, it is not subject to deduction of tax at source.
- 2.8.3 For many years there has been a Statement of Practice in place to the effect that tax would not be charged if a non-resident individual was in receipt of a Guernsey Old Age pension. This creates a potential anomaly for persons who receive such pensions but who also receive other sources of income from Guernsey sources, as the overall effect may be that those persons do not pay as much tax on their Guernsey sources as a solely or principally resident person would, in the same financial circumstances.

Proposal

- 2.8.4 The Department considers that, to regularise this anomaly, sections 51(5) and section 51A(2A) of the Income Tax Law should be revised to entitle a person who is non-resident, or who is resident but not solely or principally resident, for income tax purposes, to 1/52nd of the annual amount of personal allowances to which a person who is solely or principally resident would be entitled, for each 7 days that they are in receipt of a Guernsey Old Age Pension, subject to the other provisions of those sections. The Statement of Practice, referred to at 2.8.3, would then be repealed.

3. **Legislation**

- 3.1 Following Royal Assent to the Income Tax (Zero 10) (Guernsey) Law, 2007, the Income Tax Law was amended to introduce section 208C, which

permits the States to amend the Income Tax Law by Ordinance. This is the process which will be used to give effect to all the amendments proposed in this Report, except for the amendment proposed in 2.2, which will be by Regulations.

3.2 The Law Officers have been consulted about these proposals.

4. Resource Implications

- 4.1 There will be a positive overall impact on staff resources at the Income Tax Office (and, in relation to 2.6 of this Report (Information Exchange between the Income Tax Office and Housing Department), staff resources of the Housing Department) if these proposals are approved.
- 4.2 The amendments to the Income Tax Law, as referred to in 2.4 (Payments for information), 2.6 (Information Exchange between the Income Tax Office and Housing Department), and 2.8 (Non-resident pensioners – entitlement to personal allowances) of this Report may have a beneficial impact on General Revenue, although the extent of this is currently not measurable.
- 4.3 If the proposals relating to interim assessments (paragraph 2.1.13) are approved, computer system changes would be required to accommodate the change, following which there would be a small positive impact on staff resources at the Income Tax Office.
- 4.4 If the proposals relating to persons who are assessed without having made an income tax return (paragraph 2.5.7) are approved, computer system changes would be required to accommodate the change, following which there would be a positive impact on staff resources at the Income Tax Office, which, in the long term, would allow the Director to deploy those resources to other purposes, such as dealing with persons whose tax affairs are of a complex nature, and the countering of domestic tax evasion and avoidance.
- 4.5 It is anticipated that the computer changes referred to above, and attendant costs of communicating the changes to the public, will cost approximately £33,000, which will be funded from within the Treasury and Resources Department's existing budget.

5. Recommendations

The Treasury & Resources Department recommends that the States agree that the Income Tax Law be revised and Regulations be made, as appropriate, as follows, all amendments to become effective from the date of enactment of the relevant Ordinance and Regulations:

- 5.1. In relation to the proposals relating to interim assessments set out in paragraph 2.1:

- 5.1.1 that the right of appeal in respect of a person who is aggrieved by an interim assessment to appeal is repealed;
 - 5.1.2 to specify, subject to 5.1.5 below, that an interim assessment would be revised, to become a final assessment, once the relevant return had been filed, notwithstanding the absence of an appeal;
 - 5.1.3 to permit a person served with an interim assessment to request a suspension of part or the whole of the tax charged in the interim assessment, if they consider it to be excessive, such a request to be made within thirty days of the date of issue of the assessment (or longer, at the discretion of the Director);
 - 5.1.4 to make provision for disputes, in relation to a refusal by the Director to admit an application for deferral of payment, to be resolved by way of a hearing by the Guernsey Tax Tribunal;
 - 5.1.5 in order to deal with instances where a person, who is served with an interim assessment, fails to file a return for the relevant year within the time allowed, to permit the Director to issue the person concerned with a final assessment (including estimates, as required), against which there would be a right of appeal, but any request subsequently made for suspension of tax charged in that assessment would be admitted only at the discretion of the Director, with no right of appeal if such application is denied.
- 5.2 That, as set out in paragraph 2.2, the Regulations governing the operation of the ETI Scheme be amended to require that coding notices, direction notices and other correspondence relating to the operation of the ETI Scheme, that pass between the Director and employers, should be transmitted by electronic means, unless, at his discretion, the Director agrees an alternative, in the case of any particular employer or class of employer.
- 5.3 To reinstate, as set out in paragraph 2.3, section 62AC of the Income Tax Law, which was repealed with effect from 1st January 2013.
- 5.4 In relation to the proposals to make payments for information set out in paragraph 2.4:
- 5.4.1 to allow for reward payments to be made to a person who provides information, which aids an investigation by the Director and leads directly to the recovery of taxes which have been unpaid due to evasion of tax by another person subject to conditions within which the Director will exercise his discretion to make such a reward payment (such as the maximum payment that may be made in any one instance), to be set out in a Statement of Practice, by the Director:

- 5.4.2 to provide that payments under the reward scheme would be taxable;
 - 5.4.3 to indemnify the Director from any claim of breach of confidentiality, under the provisions of the Income Tax Law, in connection with any aspect of the administration of the reward scheme;
 - 5.4.4 to provide that the Director can lawfully use the information for the purposes of his functions, under the Income Tax Law, and that the information received is to be confidential and only disclosable in limited circumstances (eg, for the investigation of crime or pursuant to an order of the court);
 - 5.4.5 the operation of the scheme will be without prejudice to the other powers available to the Director (including, for example, his powers to serve an information notice under section 75B of the Income Tax Law).
- 5.5 In relation to the proposals set out in paragraph 2.5 relating to assessments issued to persons who have not been required to complete an income tax return:
- 5.5.1 that the person receiving the assessment would be deemed to have made a return for that year of charge, under section 68 of the Income Tax Law, containing the same sources and amounts of income, and making the same claims to personal and other allowances, reliefs and deductions as are contained in that assessment;
 - 5.5.2 that if, within thirty days of the date of the issue of the assessment, the person assessed notified the Director, in writing, of any deficiencies, errors or other irregularities contained in the assessment (“an amending notice”), the return that he or she is deemed to have made, for that year, will be further deemed to have been made in accordance with the amending notice given to the Director and so much of the assessment as remained unamended;
 - 5.5.3 that, within 30 days of receiving an amending notice, the Director would be required to issue confirmation of receipt of the amending notice;
 - 5.5.4 that the Director may then make a further assessment on the person concerned, taking into account the contents of the amending notice, if he considers it appropriate to do so.
 - 5.5.5 that the confirmation of receipt of an amending notice, issued by the Director, or an amended assessment referred to in 5.5.4, will be treated as conclusive evidence, for all the purposes of the Income Tax Law, that a return was made in accordance with the notice of assessment, as adjusted by the amending notice or as set out in the amended assessment (as the case may be); and

- 5.5.6 that this provision does not in any way limit the power of the Director to make any enquiry into any aspect of a person's income tax affairs, make any assessment, impose any penalty or make any order or direction or exercise any other relevant function that is otherwise allowed by law.
- 5.6 As set out in paragraph 2.6, to amend the Income Tax Law to provide that the Director may pass information, which he has received in the exercise of his official functions, to the Housing Department, for the purpose of assisting the Housing Department in fulfilling its functions under the States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005, the Housing (Control of Occupation) (Guernsey) Law, 1994 and the Right to Work (Limitation and Proof) (Guernsey) Law, 1990 ("the Housing Legislation"); and that the Housing Department may in turn use the information so provided for the purpose of carrying out those functions.
- 5.7 As set out in paragraph 2.6, amend the Housing Legislation to provide that the Housing Department may pass information, which it has received in the exercise of its official functions, to the Director, for the purpose of assisting the Director in fulfilling his functions under the Income Tax Law; and that the Director may in turn use the information so provided for the purpose of carrying out those functions.
- 5.8 As set out in paragraph 2.6, include within the Population Management Law such provisions as are necessary (including but not limited to amendments to other legislation) to provide that the Population Office may pass information which it has received in the exercise of its official functions under the Population Management Law to the Director, for the purpose of assisting the Director in fulfilling his functions under the Income Tax Law; that the Director may pass information which he has received in the exercise of his official functions to the Population Office, for the purpose of assisting that Office in fulfilling its functions under the Population Management Law; and that the Population Office and the Director (as the case may be) may in turn use the information so provided for the purpose of carrying out those respective functions.
- 5.9 As set out in paragraph 2.7, to amend the Income Tax Law to the effect that, following the issue of an additional assessment, a right of appeal exists only in relation to the additional aspects of the assessment, and not to the elements that were in previous iterations of the assessment in respect of which the appeal process has already been exhausted, or the right to appeal has otherwise expired.
- 5.10 As set out in paragraph 2.8, to amend section 51(5) and section 51A(2A) of the Income Tax Law to entitle a person who is non-resident, or who is resident but not solely or principally resident, for income tax purposes, to 1/52nd of the annual amount of personal allowances to which a person who is solely or principally resident would be entitled, for each 7 days that they are in receipt of a Guernsey Old Age Pension, subject to the other provisions of those sections.

Yours faithfully

G A St Pier
Minister

J Kuttelwascher
Deputy Minister

A H Adam
R A Perrot
A Spruce

Mr J Hollis
(Non-States Member)

(N.B. The Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as defined in Billet d'État IV of 2011.)

The States are asked to decide:-

XIV.- Whether, after consideration of the Policy Letter dated 18th September, 2015, of the Treasury and Resources Department, they are of the opinion:-

1. To agree that The Income Tax (Guernsey) Law, 1975, as amended, be revised and Regulations be made, as required and as follows, with all amendments to become effective from the date of enactment of the relevant Ordinance and Regulations:
 - a) in relation to the proposals relating to interim assessments set out in paragraph 2.1 of that Policy Letter:
 - (i) that the right of appeal in respect of a person who is aggrieved by an interim assessment to appeal is repealed;
 - (ii) to specify, subject to (v) below, that an interim assessment would be revised, to become a final assessment, once the relevant return had been filed, notwithstanding the absence of an appeal;
 - (iii) to permit a person served with an interim assessment to request a suspension of part or the whole of the tax charged in the interim assessment, if they consider it to be excessive, such a request to be made within thirty days of the date of issue of the assessment (or longer, at the discretion of the Director);
 - (iv) to make provision for disputes, in relation to a refusal by the Director to admit an application for deferral of payment, to be resolved by way of a hearing by the Guernsey Tax Tribunal;
 - (v) in order to deal with instances where a person, who is served with an interim assessment, fails to file a return for the relevant year within the time allowed, to permit the Director to issue the person concerned with a final assessment (including estimates, as required), against which there would be a right of appeal, but any request subsequently made for suspension of tax charged in that assessment would be admitted only at the discretion of the Director, with no right of appeal if such application is denied.
 - b) That, as set out in paragraph 2.2 of that Policy Letter, the Regulations governing the operation of the ETI Scheme be amended to require that coding notices, direction notices and other correspondence relating to the

operation of the ETI Scheme, that pass between the Director and employers, should be transmitted by electronic means, unless, at his discretion, the Director agrees an alternative, in the case of any particular employer or class of employer.

- c) To reinstate, as set out in paragraph 2.3 of that Policy Letter, section 62AC of The Income Tax (Guernsey) Law, 1975, as amended, which was repealed with effect from 1st January 2013.
- d) In relation to the proposals to make payments for information set out in paragraph 2.4 of that Policy Letter to allow for reward payments to be made to a person who provides information, which aids an investigation by the Director and leads directly to the recovery of taxes which have been unpaid due to evasion of tax by another person subject to conditions within which the Director will exercise his discretion to make such a reward payment (such as the maximum payment that may be made in any one instance), to be set out in a Statement of Practice, by the Director:
 - (i) to provide that payments under the reward scheme would be taxable;
 - (ii) to indemnify the Director from any claim of breach of confidentiality, under the provisions of The Income Tax (Guernsey) Law, 1975, as amended, in connection with any aspect of the administration of the reward scheme;
 - (iii) to provide that the Director can lawfully use the information for the purposes of his functions, under The Income Tax (Guernsey) Law, 1975, as amended, and that the information received is to be confidential and only disclosable in limited circumstances (eg, for the investigation of crime or pursuant to an order of the court);
 - (iv) the operation of the scheme will be without prejudice to the other powers available to the Director (including, for example, his powers to serve an information notice under section 75B of The Income Tax (Guernsey) Law, 1975, as amended).
- e) In relation to the proposals set out in paragraph 2.5 of that Policy Letter relating to assessments issued to persons who have not been required to complete an income tax return:
 - i) that the person receiving the assessment would be deemed to have made a return for that year of charge, under section 68 of The Income Tax (Guernsey) Law, 1975, as amended, containing the same sources and amounts of income, and making the same claims to personal and other allowances, reliefs and deductions as are contained in that assessment;

- ii) that if, within thirty days of the date of the issue of the assessment, the person assessed notified the Director, in writing, of any deficiencies, errors or other irregularities contained in the assessment (“an amending notice”), the return that he or she is deemed to have made, for that year, will be further deemed to have been made in accordance with the amending notice given to the Director and so much of the assessment as remained unamended;
 - iii) that, within 30 days of receiving an amending notice, the Director would be required to issue confirmation of receipt of the amending notice;
 - iv) that the Director may then make a further assessment on the person concerned, taking into account the contents of the amending notice, if he considers it appropriate to do so.
 - v) that the confirmation of receipt of an amending notice, issued by the Director, or an amended assessment referred to in 5.5.4, will be treated as conclusive evidence, for all the purposes of The Income Tax (Guernsey) Law, 1975, as amended, that a return was made in accordance with the notice of assessment, as adjusted by the amending notice or as set out in the amended assessment (as the case may be); and
 - vi) that this provision does not in any way limit the power of the Director to make any enquiry into any aspect of a person’s income tax affairs, make any assessment, impose any penalty or make any order or direction or exercise any other relevant function that is otherwise allowed by law.
- f) As set out in paragraph 2.6 of that Policy Letter, to amend The Income Tax (Guernsey) Law, 1975, as amended, to provide that the Director may pass information, which he has received in the exercise of his official functions, to the Housing Department, for the purpose of assisting the Housing Department in fulfilling its functions under The States Housing (Rent and Rebate Scheme) (Guernsey) Regulations, 2005, The Housing (Control of Occupation) (Guernsey) Law, 1994 and The Right to Work (Limitation and Proof) (Guernsey) Law, 1990 (“the Housing Legislation”); and that the Housing Department may in turn use the information so provided for the purpose of carrying out those functions.
- g) As set out in paragraph 2.6 of that Policy Letter, amend the Housing Legislation, as defined in 1(f) above, to provide that the Housing Department may pass information, which it has received in the exercise of its official functions, to the Director, for the purpose of assisting the Director in fulfilling his functions under The Income Tax (Guernsey) Law,

1975, as amended; and that the Director may in turn use the information so provided for the purpose of carrying out those functions.

- h) As set out in paragraph 2.6 of that Policy Letter, include within the future Population Management Law such provisions as are necessary (including but not limited to amendments to other legislation) to provide that the Population Office may pass information which it has received in the exercise of its official functions under the Population Management Law to the Director, for the purpose of assisting the Director in fulfilling his functions under The Income Tax (Guernsey) Law, 1975, as amended; that the Director may pass information which he has received in the exercise of his official functions to the Population Office, for the purpose of assisting that Office in fulfilling its functions under the future Population Management Law; and that the Population Office and the Director (as the case may be) may in turn use the information so provided for the purpose of carrying out those respective functions.
- i) As set out in paragraph 2.7 of that Policy Letter, to amend The Income Tax (Guernsey) Law, 1975, as amended, Law to the effect that, following the issue of an additional assessment, a right of appeal exists only in relation to the additional aspects of the assessment, and not to the elements that were in previous iterations of the assessment in respect of which the appeal process has already been exhausted, or the right to appeal has otherwise expired.
- j) As set out in paragraph 2.8 of that Policy Letter, to amend section 51(5) and section 51A(2A) of The Income Tax (Guernsey) Law, 1975, as amended, to entitle a person who is non-resident, or who is resident but not solely or principally resident, for income tax purposes, to 1/52nd of the annual amount of personal allowances to which a person who is solely or principally resident would be entitled, for each 7 days that they are in receipt of a Guernsey Old Age Pension, subject to the other provisions of those sections.

REQUÊTE**BOWEL CANCER SCREENING**

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation SHEWETH THAT:-

1. In approving the 2020 Vision of the Health and Services Department it was agreed that the three core principles of the Department are: promoting good health and well-being; improving outcomes for people who use health and social services; protecting people through high quality, well-regulated services.
2. Research commissioned by the Health and Social Services Department in 2011 identified a possible 4% saving in health costs (with further possible savings to primary care and prescription costs) by increasing preventable health care measures.
3. It further says that the population should be protected by screening and immunisation.
4. It further says that good decisions can only be effective if they have the buy-in of those who have to deliver services.
5. It further says that there is a real need to ensure that clinicians are able to contribute to the shape of future service.
6. Bowel cancer screening and some treatment (removal of polyps) can be carried out at the same time.
7. Bowel cancer screening saves lives but also saves more money than the cost of screening.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to direct the Health and Social Services Department:

1. To offer bowel cancer screening using a flexible sigmoidoscope to all Guernsey residents as they become 60 years of age and 65 years of age.
2. To offer bowel cancer screening using a flexible sigmoidoscope to any Guernsey resident who is between the age of 60 and 65 years of age who has not been screened.
3. To offer screening for bowel cancer using a flexible sigmoidoscope to any Guernsey resident who has a familial history of bowel cancer, as defined by the British Society of Gastroenterology
4. To offer bowel cancer screening by a colonoscopy to any Guernsey resident over the age of 60 for an all inclusive fee of £750
5. To introduce further screening by colonoscopy by 2017 as advised by local clinicians.

For the purposes of rule 15 (2) of the Rules of Procedure of the States of Deliberation it is not expected that the programme will exceed the already approved ring fenced budget

of £327,000 for Bowel Cancer Screening which has never been spent in any year since it was approved. Savings accrued so far and in the future will ensure that the budget is not exceeded.

AND YOUR PETITIONERS WILL EVER PRAY

Guernsey This 7th day of September 2015

Deputy M P J Hadley
Deputy A R Le Lièvre
Deputy M J Fallaize
Deputy R Conder
Deputy B J E Paint
Deputy A H Adam
Deputy P A Sherborne

(N.B. In accordance with Rule 17 (2) of the States Rules of Procedure of the States of Deliberation, the Policy Council has sought the views of all Departments and Committees appearing to have a particular interest in the subject matter of the Requête, in this case the Health and Social Services Department and the Treasury and Resources Department.

The Departments have responded as follow:

Health and Social Services Department

In response to Deputy Hadley's Requête, we outline the position and future commissioning intentions of HSSD concerning the Bowel Screening Programme in Guernsey.

From April of this year, HSSD renewed the analysis and consideration of the Guernsey Bowel Screening Programme. The review identified that the Bowel Screening Programme was of high quality and had received high patient satisfaction scores. A decision was planned to be taken on the future scope and funding of the Programme in September 2015.

All outstanding evidence was presented to the Board in September 2015 and the Board agreed that the Programme would be extended in 2016 on the following basis:

- i. To offer bowel screening to all using a flexible sigmoidoscopy to any Guernsey residents - as they become 60 and 65 years of age.
- ii. To offer bowel cancer screening to all using a flexible sigmoidoscopy to any Guernsey resident who is between the age of 60 and 65 who has not been screened.
- iii. To offer bowel cancer screening to all using a flexible sigmoidoscopy to any Guernsey resident who has a familial history of bowel cancer, as defined by the British Society of Gastroenterology.
- iv. To endorse MSG being awarded a contract for the delivery of bowel screening with a minimum of 127 screening sessions being held annually for £160,000, with a total new bowel cancer screening budget of £338,000, which is £10,000 above the existing ring fenced budget. HSSD will absorb this additional cost within its existing cash limits.

To endorse the need for Board monitoring on bowel screening to take place; quarter updates from the PEH and MSG regarding outcomes from the extension of the Bowel Screening Programme, clear Key Performance Indicators reporting and an analysis on scope of the service.

The Board did not support bowel cancer screening by a colonoscopy to any Guernsey resident over the age of 60, for an inclusive fee of £750 – as the cost indicated doesn't reflect the cost of delivering this service. The Board also did not support the proposed introduction of colonoscopy by 2017 as advised by local clinicians, following discussions with the MSG Consultant specialist.

Based on these decisions HSSD has written formally to the service provider MSG and will finalise a new contract as quickly as possible, enabling MSG to appoint a second gastroenterologist.

Treasury and Resources Department

The Treasury and Resources Department notes that the Health and Social Services Department is intending to implement the extended programme as detailed within clauses 1, 2, and 3 of the Requête and this will be funded from within existing budget (allocated following prioritisation of bowel cancer screening in the 2011-2016 States Strategic Plan).

If the Health and Social Services Department is directed to introduce the services set out in clauses 4 and 5 of the Requête, any additional funding required to do so should be made available by the reprioritisation of existing budget. It is noted that the Health and Social Services Department is advising that the proposed fee in clause 4 would not cover the cost of delivering the service which would not comply with the States' fees and charges policy.

(N.B. The Policy Council has been advised that the Health and Social Services Department has agreed to implement an extended bowel cancer screening programme in 2016, which mirrors that sought in propositions 1-3 of the Requête. It has also been advised that, following discussions with the Medical Specialist Group's Consultant Specialist, the Health and Social Services Department has decided not to introduce further screening by colonoscopy by 2017 (proposition 5 of the Requête), nor does it support the introduction of bowel cancer screening for over 60s at an inclusive fee of £750 (proposition 4 of the Requête), that fee being insufficient to cover the cost of the service.

In the light of those deliberations and decisions, the Policy Council does not support the prayer of the Requête.)

The States are asked to decide:-

XV:- Whether, after consideration of the Requête dated 7th September, 2015, signed by Deputy M. P. J. Hadley and six other Members of the States, they are of the opinion:-

1. To offer bowel cancer screening using a flexible sigmoidoscope to all Guernsey residents as they become 60 years of age and 65 years of age.
2. To offer bowel cancer screening using a flexible sigmoidoscope to any Guernsey resident who is between the age of 60 and 65 years of age who has not been screened.
3. To offer screening for bowel cancer using a flexible sigmoidoscope to any Guernsey resident who has a familial history of bowel cancer, as defined by the British Society of Gastroenterology.
4. To offer bowel cancer screening by a colonoscopy to any Guernsey resident over the age of 60 for an all inclusive fee of £750.00.
5. To introduce further screening by colonoscopy by 2017 as advised by local clinicians.