



BILLET D'ÉTAT

TUESDAY, 26th JANUARY, 2016

**I
2016**

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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 **TUESDAY**, the **26th JANUARY, 2016** 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

18th December 2015

PROJETS DE LOI

entitled

THE FIREARMS (GUERNSEY) (AMENDMENT) LAW, 2016

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft Projet de Loi entitled “The Firearms (Guernsey) (Amendment) Law, 2016”, and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

EXPLANATORY MEMORANDUM

This Projet will amend the Firearms (Guernsey) Law, 1998 (“the principal Law”) to give effect to the States Resolution following Article X of Billet d'État No. XVIII of 2006, for the following purposes and to the following effect:

- (a) to create an offence of possession of imitation firearms in public places, without lawful authority or reasonable excuse, regardless of intent; and to provide for further exceptions (such as in relation to “airsoft” activities) to be made by regulations of the Home Department (substitution of section 20 of the principal Law),
- (b) to create an offence of possession of real firearms in public places, without lawful authority or reasonable excuse, regardless of whether or not the person in possession of the firearm has ammunition with him at that time (substitution of section 20 of the principal Law),
- (c) to create an offence of possession of shotguns or air weapons in public places, without lawful authority or reasonable excuse, regardless of whether or not the shotgun or air weapon is loaded; and in relation to the offence concerning air weapons, to provide for further exceptions (such as in relation to “airsoft” activities) to be made by regulations of the Home Department (substitution of section 20 and amendments to section 20A of the principal Law),
- (d) to provide for a maximum penalty of 5 years' imprisonment for the offences in paragraphs (a) to (c) above (the penalty for an offence under section 20 of the principal Law remains the same),
- (e) to create an offence of manufacturing, modifying, selling or importing a realistic imitation firearm, providing for appropriate defences or exceptions relating to museums, galleries, theatre, film, television or historical re-enactments; and to provide for further exceptions (such as in relation to “airsoft” activities) to be made by regulations of the Home Department (insertion of new sections 5A and 5B into the principal Law),
- (f) to create an offence for under-18s to purchase, hire or possess an imitation firearm or for somebody to sell, let on hire or otherwise supply an imitation firearm to an under-

18; and to provide for further exceptions (such as in relation to “airsoft” activities) to be made by regulations of the Home Department (substitution of section 25 of, amendments to section 26 of, and insertion of new section 26A into, the principal Law),

(g) to extend the powers of police officers to search under warrant, to include searching for imitation firearms as well as air weapons and regulated weapons (spearguns and crossbows, when an Ordinance is made to declare these as regulated weapons in due course) (amendments to section 48 of the principal Law),

(h) to extend the powers of the Court to order forfeiture and disposal of firearms upon conviction of an offence, to imitation firearms as well as air weapons and regulated weapons (spearguns and crossbows, when an Ordinance is made in due course) (amendments to section 54 of the principal Law),

(i) to update other provisions in the Law relating to search and seizure powers and forfeiture upon conviction, as well as penalties for offences, to include air weapons, imitation firearms and regulated weapons (spearguns and crossbows) in order to reflect the new offences involving air weapons, imitation firearms and regulated weapons (amendments to Part III of and Schedule 2 to the principal Law),

(j) to create an offence of having an air weapon in premises but firing a missile from the air weapon beyond those premises (insertion of new section 23A into the principal Law),

(k) to increase the age for possession of an air weapon from 16 years to 18 years, subject to exceptions relating to under-18s who are members of an air rifle club and for further exceptions (such as in relation to “airsoft” activities) to be made by regulations of the Home Department (substitution of section 25 of the principal Law; insertion of new sections 26A and 55A into the principal Law, which would allow appropriate exceptions to be made by regulations),

(l) to provide for an exception from offences relating to the possession of air weapons in a public place or firing of air weapons, relating to the use of air weapons for vermin control, where permitted by the Chief Officer of Police (insertion of new section 23B into the principal Law),

(m) to make any air weapon which uses, or is designed or adapted for use with, a self-contained gas cartridge system, a weapon subject to general prohibition, so that its possession, use, purchase, acquisition, manufacture, sale or transfer would require specific authorisation by the Home Department (amendment of section 6 of the principal Law),

(n) to allow an applicant for a shot gun certificate, if currently the holder of a firearms certificate, to elect a shorter period of validity for the shot gun certificate, so that it expires at the same time as the firearm certificate (amendment of section 29 of the principal Law),

- (o) to terminate the requirement to remit half of the fees for shot gun certificates to the Parish where the applicant resides (amendments to section 35 of the principal Law),
- (p) to narrow down the general exemption (from the requirement to hold a firearm certificate) relating to antique firearms, so that only firearms manufactured prior to 1870 would fall within this exemption (in accordance with up-to-date advice from Guernsey Police, this cut-off year has been substituted for the year 1900 originally stated in the States Report), other than "centre-fired" weapons, for which there should be no exemptions (insertion of definition of "antique firearm" in section 58(3) of the principal Law),
- (q) to allow visitors from Sark to be given a temporary visitor's permit for firearms for up to 90 instead of 30 days (amendments to section 16 of the principal Law),
- (r) to allow for a range of new fees and charges to be introduced in relation to firearm and shotgun certificates, including charges for any necessary security inspection visits, and for a range of fees to be charged for registered firearms dealers (amendments to sections 16, 35 and 58(3) of the principal Law; insertion of new section 23B into the principal Law),
- (s) to allow the Department to make regulations to prescribe appropriate matters under the principal Law (substitution of definition of "prescribed" in section 58(3) of the principal Law; insertion of new section 55A into the principal Law);
- (t) to repeal various provisions in Ordinances which regulate shooting in ranges and to allow updated provisions relating to the safety and security of the various shooting ranges to be introduced by regulations (clause 30 (Repeals) of this Projet; amendments to section 22 of the principal Law and insertion of new section 55A into the principal Law), and
- (u) to create an offence for under-18s to purchase, hire or possess a cross bow or spear gun or for somebody to sell, let on hire or otherwise supply a cross bow or spear gun to an under-18, subject to exceptions relating to under-18s participating in supervised sporting activities controlled by a recognised sporting club or organisation (substitution of section 25 and amendments to section 26 of the principal Law; insertion of the new sections 26A and 55A into the principal Law, which would allow appropriate exceptions to be made by regulations).

THE SOCIAL INSURANCE (GUERNSEY) (AMENDMENT) LAW, 2016

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Projet de Loi entitled "The Social Insurance (Guernsey) (Amendment) Law, 2016", and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

EXPLANATORY MEMORANDUM

This Law amends the definition of pensionable age for the purposes of the Social Insurance (Guernsey) Law, 1978 and the Health Service (Benefit) Ordinance, 1990. The amendment provides for a graduated increase in pensionable age from 65 years (in respect of persons born before 1st January 1955) to 70 years (in respect of persons born on or after 1st March, 1979).

THE CONTROL OF TRADE IN ENDANGERED SPECIES ETC. (BAILIWICK OF GUERNSEY) ORDINANCE, 2016

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Control of Trade in Endangered Species etc. (Bailiwick of Guernsey) Ordinance, 2016”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance replaces the current regime for regulation of the import and export of trade in endangered species (live animals and plants) and products derived from the same, under the import and export legislation applying in Guernsey and Alderney (see sections 58 and 59 and Schedules 1 and 2). The current import and export controls implemented the Convention on International Trade in Endangered Species (CITES) in the Bailiwick of Guernsey, the UK’s ratification of which was extended to the Bailiwick in 1976.

The States directed the drafting of the Ordinance in response to a conference resolution of the Conference of Parties to CITES which required about 30 territories (including the Bailiwick and the other Crown Dependencies) to update their implementation arrangements as being inconsistent with all the requirements of the Convention including as required by various resolutions of the parties to the Convention approved since 1976. The Ordinance is made under the Control of Trade in Endangered Species (Enabling Provisions) (Bailiwick of Guernsey) Law, 2010.

To meet the full requirements of the Convention, the Ordinance –

- (a) designates the States of Guernsey Commerce and Employment Department as Management Authority for the Bailiwick for the purposes of the Convention and confers functions on the Department to enable it to issue permits and certificates and be responsible for the implementation of the Convention in the Bailiwick (Part I);
- (b) provides for detailed regulation of trade in specimens of endangered species through a permitting system (Parts II and III) with the greatest restrictions being on trade in the most endangered animals, plants or products derived from them (Annex A specimens);

- (c) provides in Part IV for certain exemptions from and modifications to the requirements in Part II on imports and exports for certain categories of specimen e.g. animal/plant derived products acquired before the Convention came into force and plants or animals which are artificially propagated/captive bred etc.;
- (d) provides in Part V for procedural provisions relating to applications for permits, certificates and registrations under the Ordinance and variations, transfers, suspensions or revocations of the same;
- (e) controls certain commercial activities and possession of specimens acquired contrary to the provisions of the Ordinance (Part VI);
- (f) provides for a register of scientific institutions which are exempt from certain restrictions on trade in specimens and provides powers for other registers to be set up (Part VII),
- (g) sets out enforcement powers including provision for the appointment of authorised persons to carry out certain enforcement functions; and
- (h) sets out appeal provisions to the Royal Court against decisions of the Department (Part IX).

The specimens subject to the Ordinance are defined by reference to Annexes to the EU Directive implementing CITES in the EU. The EU Annexes give higher protection to some species than CITES and add some further species that are in risk in Europe alone. However, as almost all trade is with the EU it was considered appropriate to follow the EU list of species to simplify trade with EU countries in such specimens.

There has been consultation on the Ordinance with the Department for the Environment, Food and Rural Affairs in the UK and the CITES Convention Secretariat to ensure that they are satisfied that the CITES requirements are met. There has also been consultation with the relevant Committees in Alderney and Sark as required under the 2010 Enabling Law.

THE SINGLE EURO PAYMENTS AREA (GUERNSEY) ORDINANCE, 2016

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled “The Single Euro Payments Area (Guernsey) Ordinance, 2016”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance implements the States Resolution of 24th June 2015 to give effect to the necessary provisions of EU/EEA legislation to enable Guernsey to meet the requirements

for third country participation in the Single Euro Payments Area.

The Ordinance is made pursuant to the States powers under sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994, which permits the States of Deliberation by Ordinance to make such provision as they may consider necessary or expedient for the purpose of the implementation of any Community provision.

The Ordinance makes provision substantially equivalent to Titles III and IV of the Payment Services Directive 2007/64 as well as those of Article 5 of, and the Annex to, Regulation (EU) 260/2012. The obligations will be binding on those banks making payments through the Single Euro Payments Area (“SEPA”) Schemes (the scope of the Ordinance is restricted to such payments by virtue of the definition of “payment transaction” in section 62 of the Ordinance and, in the case of Part IV, by section 52 of the Ordinance).

The Ordinance transposes requirements relating to the transparency of conditions and information requirements for payment services; rights and obligations in relation to the provision and use of payment services; technical and business requirements for credit transfers and direct debits in euros. The Ordinance provides for monitoring, supervision and enforcement of compliance by the Guernsey Financial Services Commission.

Given the requirement that the Ordinance implements those provisions of EU/EEA legislation necessary to enable Guernsey to meet the requirements for third country participation in the Single Euro Payments Area, the Commerce and Employment Department and the Law Officers provided the European Payments Council (“the EPC”) with the draft Ordinance alongside a Statement of Compliance and a Legal Opinion confirming how Guernsey met the EPC’s “Criteria for Participation in the SEPA Schemes for communities of banks or financial institutions outside the European Economic Area”, in order to allow an opportunity for any feedback from the EPC to be taken on board before the Ordinance was enacted by the States. Following a review of the application and the draft Ordinance, including scrutiny of the text by the EPC’s legal advisers, the EPC have now approved Guernsey’s application subject to implementation of the Ordinance in that form.

The Ordinance is intended to come into force on 27th January, 2016.

THE MATERNITY LEAVE AND ADOPTION LEAVE (GUERNSEY) ORDINANCE, 2016

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Maternity Leave and Adoption Leave (Guernsey) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance introduces statutory maternity and adoption leave to Guernsey, and creates associated rights and obligations. Part 1 creates the rights to "basic" maternity leave of 12 weeks, and to "additional" maternity leave (giving a total leave period of 26 weeks, and available only to employees who have been in the continuous employment of their employer for 15 months). Part 1 also makes it an offence for an employer to permit an employee to work during the period of two weeks immediately after childbirth; this is primarily a measure to protect the health of the mother, and similar provision is found in UK legislation and elsewhere. This Part also creates associated employee rights, imposes notification duties on employees, and deals with redundancy during maternity leave.

Part 2 creates a right for the partner of an employee who has given birth to two weeks' "maternity support leave"; this is subject to the partner satisfying a 15 months' continuous employment requirement.

Part 3 and Schedule 1 create appropriate equivalent rights in respect of the adoption of children by setting out how Part 1 applies in such circumstances in modified form. This includes provision for identifying, when a child is being adopted by a couple, which person may benefit from the right to leave. Part 4 contains general provisions, including a power to make regulations applying Parts 1 and 2 to surrogacy arrangements, and the enforcement of the rights created in Parts 1 to 3, largely through the amendment of existing employment legislation. While the Ordinance has a commencement date of 1st April, 2016, Part 4 also provides (at section 25) that the rights to leave only apply in relation to employees whose due date (or expected date of adoption placement) is 7th August 2016 or later. This is effectively a necessary transitional provision.

Separate legislation will address parental benefits, which the States have resolved can be introduced after statutory maternity leave.

THE REGISTERED PLANT BREEDERS' RIGHTS (BAILIWICK OF GUERNSEY) (AMENDMENT) ORDINANCE, 2016

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled "The Registered Plant Breeders' Rights (Bailiwick of Guernsey) (Amendment) Ordinance, 2016", and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance is made under the Intellectual Property (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004. Section 18(7) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, also made under that Law, enables the Commerce and Employment Department to make regulations prescribing the information which is to be provided by proprietors of plant breeders' rights and by farmers and seed

processors in respect of farm-saved seed. This Ordinance amends the 2007 Ordinance so as to provide that failure to comply with such regulations is an offence.

**THE HOUSING (CONTROL OF OCCUPATION) (AMENDMENT OF
HOUSING REGISTER) ORDINANCE, 2016**

The States are asked to decide:-

VII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Housing (Control of Occupation) (Amendment of Housing Register) Ordinance, 2016”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance is made under the Housing (Control of Occupation) (Guernsey) Law, 1994 and authorises the Housing Department to inscribe in Part A of the Housing Register three apartments on the site known as La Salerie Inn Apartments, La Salerie, Saint Peter Port.

Section 2 of the draft Ordinance provides that the inscription must be made within 12 months of the date of commencement of the Ordinance which, in accordance with section 7, is 1st February, 2016.

**THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENT WITH
BULGARIA) ORDINANCE, 2016**

The States are asked to decide:-

VIII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Guernsey) (Approval of Agreement with Bulgaria) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

EXPLANATORY MEMORANDUM

This Ordinance specifies, as an approved international agreement, an agreement providing for the obtaining, furnishing and exchanging of information in relation to tax, made for the purposes of the Income Tax (Guernsey) Law, 1975.

The agreement specified was made between the States of Guernsey and the Government of the Republic of Bulgaria, signed on the 20th May, 2015 and the 11th June, 2015 on behalf of Bulgaria and Guernsey respectively

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

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

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

In pursuance of section 537 of the Companies (Guernsey) Law, 2008, “The Companies (Standard Articles of Incorporation) (Amendment) Regulations, 2015”, made by the Commerce and Employment Department on 24th September 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations replace the schedule to the Companies (Standard Articles of Incorporation) Regulations, 2015 which sets out standard articles of incorporation for the purposes of the Companies (Guernsey) Law, 2008.

These Regulations came into force on 25th day of September, 2015.

**THE INCOME TAX (STANDARD CHARGE) (AMENDMENT)
REGULATIONS, 2015**

In pursuance of Section 203 of the Income Tax (Guernsey) Law, 1975, as amended, “The Income Tax (Standard Charge) (Amendment) Regulations, 2015”, made by the Treasury and Resources Department on 9th October 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations increase the standard charge payable under section 5B of the Income Tax (Guernsey) Law, 1975 by individuals resident in Guernsey but not solely or principally resident therein from £27,500 to £30,000 in respect of their income in years of charge following 2015.

These Regulations come into operation on 1st January 2016.

**THE DRIVING LICENCES (GUERNSEY) THEORY TEST (AMENDMENT)
REGULATIONS, 2015**

In pursuance of section 4A of the Driving Licences (Guernsey) Ordinance, 1995, as amended, “The Driving Licences (Guernsey) Theory Test (Amendment) Regulations, 2015”, made by the Environment Department on 27th October 2015, are laid before the States.

EXPLANATORY NOTE

These Amendment Regulations amend the current fees that are chargeable for theory tests which take place on or after the 1st January 2016.

These Regulations come into force on 1st January 2016.

THE TRADE MARKS (BAILIWICK OF GUERNSEY) REGULATIONS, 2015

In pursuance of section 101 (3) of The Trade Marks (Bailiwick of Guernsey) Ordinance, 2006, “The Trade Marks (Bailiwick of Guernsey) Regulations, 2015”, made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations make provision for various matters for the purposes of the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006, including (a) that the prescribed system of classification for trade marks is the Nice Classification made under the Nice Agreement, (b) under section 35 and 36 of the Ordinance for claims to priority arising from Convention and relevant overseas applications, (c) under section 41 for division and merger of applications and for registration of a series of trade marks, (d) under section 43 for restoration of a trade mark to the register, (e) under section 61 for public inspection of the register and provision of copies of entries, and (f) under sections 66 and 67 for costs and evidence and procedure in proceedings before the Registrar.

These Regulations came into force on the 23rd day of October, 2015.

THE REGISTERED PATENT ATTORNEYS (MIXED PARTNERSHIPS AND BODIES CORPORATE) REGULATIONS, 2015

In pursuance of section 64 (3) of the Registered Patents and Biotechnological Inventions (Bailiwick of Guernsey) Ordinance, 2009, “The Registered Patent Attorneys (Mixed Partnerships and Bodies Corporate) Regulations, 2015”, made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe, for the purpose of the Registered Patents and Biotechnological Inventions (Bailiwick of Guernsey) Ordinance, 2009, the conditions to be satisfied by mixed partnerships or bodies corporate where all the partners or, as the case may be, directors are not registered patent attorneys in order for the partnership or body corporate to carry on business under the name or any description containing the words "patent attorneys", or describe itself or permit itself to be described as such.

These Regulations came into force on the 23rd day of October, 2015.

**THE REGISTERED PATENTS AND BIOTECHNOLOGICAL INVENTIONS
(DEROGATION FROM PATENT PROTECTION IN RESPECT OF
BIOTECHNOLOGICAL INVENTIONS) (BAILIWICK OF GUERNSEY)
REGULATIONS, 2015**

In pursuance of section 64 (3) of the Registered Patents and Biotechnological Inventions (Bailiwick of Guernsey) Ordinance, 2009, “The Registered Patents and Biotechnological Inventions (Derogation from Patent Protection in Respect of Biotechnological Inventions) (Bailiwick of Guernsey) Regulations, 2015”, made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

Section 37(3)(i) of the 2009 Ordinance provides that an act which would otherwise constitute an infringement does not do so if (inter alia) it is the use by a farmer of the product of his harvest for propagation or multiplication by him on his own holding, where there has been a sale of plant propagating material to the farmer by the proprietor of the patent or with his consent for agricultural use. These Regulations make provisions restricting the circumstances in which that paragraph applies and make provisions which apply where an act would constitute an infringement of a patent but for section 37(1)(i).

These Regulations came into force on 23rd day of October, 2015.

**THE REGISTERED PLANT BREEDERS' RIGHTS (DESIGNATED
COUNTRIES AND OFFICES) (BAILIWICK OF GUERNSEY)
REGULATIONS, 2015**

In pursuance of section 43 (3) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, “The Registered Plant Breeders' Rights (Designated Countries and Offices) (Bailiwick of Guernsey) Regulations, 2015”, made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations designate, for the purposes of section 4 of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, the countries and offices designated as countries or offices within which a plant breeders' right must be registered before it can be registered in the Register of Plant Breeders' Rights in the Bailiwick of Guernsey.

These Regulations came into force on the 23rd day of October, 2015.

**THE REGISTERED PLANT BREEDERS' RIGHTS (FARM SAVED SEED)
(PRESCRIBED SPECIES AND GROUPS) (BAILIWICK OF GUERNSEY)
REGULATIONS, 2015**

In pursuance of section 43 (3) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, “The Registered Plant Breeders' Rights (Farm Saved Seed) (Prescribed Species and Groups) (Bailiwick of Guernsey) Regulations, 2015”, made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

Section 18(1) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007 provides that plant breeders' rights do not extend to the use by farmers of prescribed varieties of material for propagating purposes in certain circumstances. These Regulations prescribe the varieties in relation to which this exemption applies.

These Regulations came into force on the 23rd day of October, 2015.

**THE REGISTERED PLANT BREEDERS' RIGHTS (FARM SAVED SEED)
(PRESCRIBED INFORMATION) (BAILIWICK OF GUERNSEY)
REGULATIONS, 2015**

In pursuance of section 43 (3) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, “The Registered Plant Breeders' Rights (Farm Saved Seed) (Prescribed Information) (Bailiwick of Guernsey) Regulations, 2015”, made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations, made in pursuance of section 18(7) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, make provision as to the information to be supplied by farmers, seed processors and proprietors of plant breeders' rights and prohibit the movement of farm saved seed from the holding on which it was obtained without the proprietor's permission.

These Regulations came into force on 23rd day of October, 2015.

**THE REGISTERED PLANT BREEDERS' RIGHTS (FARM SAVED SEED)
(SMALL FARMERS) (BAILIWICK OF GUERNSEY) REGULATIONS, 2015**

In pursuance of section 43 (3) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, The Registered Plant Breeders' Rights (Farm Saved Seed) (Small Farmers) (Bailiwick of Guernsey) Regulations, 2015 made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

Section 18 of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, provides that plant breeders' rights do not extend to the use by farmers of specified varieties of material for propagating purposes in certain circumstances. However, a farmer whose use of material is excepted from plant breeders' rights by these provisions is nevertheless required, unless he is a small farmer, to pay equitable remuneration, at the time of the use, to the rights holder. These Regulations define "small farmers" for the purpose of establishing which farmers are entitled to exemption from that requirement.

These Regulations came into force on 23rd day of October, 2015.

THE REGISTERED PLANT BREEDERS' RIGHTS (PRESCRIBED CLASSES OF VARIETIES) (BAILIWICK OF GUERNSEY) REGULATIONS, 2015

In pursuance of section 43 (3) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, "The Registered Plant Breeders' Rights (Prescribed Classes of Varieties) (Bailiwick of Guernsey) Regulations, 2015", made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

Section 28 of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007 prohibits the improper use of a registered name including the use of such a name in connection with a different variety of the same class. These Regulations prescribe the classes of plant varieties for this purpose.

These Regulations came into force on 23rd day of October, 2015.

THE REGISTERED PLANT BREEDERS' RIGHTS (INFORMATION NOTICES) (BAILIWICK OF GUERNSEY) REGULATIONS, 2015

In pursuance of section 43 (3) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, "The Registered Plant Breeders' Rights (Information Notices) (Bailiwick of Guernsey) Regulations, 2015", made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations are made in pursuance of section 22 of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007 which provides that, in infringement proceedings, certain presumptions apply in respect of harvested material which is the subject of an information notice if the information requested in the notice is not provided within a prescribed period. These Regulations prescribe the form of an information notice, the information which is to be requested in an information notice and certain other

particulars which must be included in an information notice. They also prescribe that 21 days is the period within which the information must be provided.

These Regulations came into force on 23rd day of October, 2015.

THE AVIATION REGISTRY (INTERESTS IN AIRCRAFT) (COMMENCEMENT) REGULATIONS, 2015

In pursuance of section 52 (4) of the Aviation Registry (Guernsey) Law, 2013, “The Aviation Registry (Interests in Aircraft) (Commencement) Regulations, 2015”, made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations commence the Aviation Registry (Guernsey) (Interests in Aircraft) Ordinance, 2015.

This Regulation came into operation on 22nd October 2015.

THE AVIATION REGISTRY (ELIGIBILITY) REGULATIONS, 2015

In pursuance of section 52 (4) of the Aviation Registry (Guernsey) Law, 2013, “The Aviation Registry (Eligibility) Regulations, 2015”, made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations specify the persons who are “qualified persons” for the purpose of section 12 of the Aviation Registry (Guernsey) Law, 2013.

This Regulation came into operation on 22nd November 2015.

THE AIR NAVIGATION (FEES) REGULATIONS, 2015

In pursuance of section 151 (4) of the Air Navigation (Bailiwick of Guernsey) Law, 2012, “The Air Navigation (Fees) Regulations, 2015”, made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations update the fees payable, and the matters in respect of which fees are payable, for applications to and the exercise of the functions of the Director of Civil Aviation under the Air Navigation (Bailiwick of Guernsey) Law, 2012.

This Regulation came into operation on 22nd October 2015.

THE COMPANIES (REGISTRAR) (FEES) REGULATIONS, 2015

In pursuance of section 537 of the Companies (Guernsey) Law, 2008, “The Companies (Registrar) (Fees) Regulations, 2015”, made by the Commerce and Employment Department on 5th November 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations replace the schedule to the Companies (Registrar) (Fees) Regulations, 2014 which sets out the fees payable to the Registrar of Companies in respect of the performance of his functions under the Companies (Guernsey) Law, 2008.

These Regulations came into force on 5th day of November, 2015.

THE INCOME TAX (APPROVED INTERNATIONAL AGREEMENTS) (IMPLEMENTATION) (COMMON REPORTING STANDARD) REGULATIONS, 2015

In pursuance of Section 203 of the Income Tax (Guernsey) Law, 1975, as amended, “The Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015”, made by the Treasury and Resources Department on 23rd November 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations implement and enable the administration and enforcement in domestic law of Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters (an approved international agreement providing for the obtaining, furnishing and exchanging of information in relation to tax), in accordance with the information exchange procedure agreed under the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information signed on behalf of the States of Guernsey at Berlin on 29th October 2014.

These Regulations came into operation on 1st December 2015.

THE REGISTERED HEALTH PROFESSIONALS REGULATIONS, 2015

In pursuance of Section 9(3) of The Registered Health Professionals Ordinance, 2006, as amended, “The Registered Health Professionals Regulations, 2015”, made by the Health and Social Services Department on 4th November 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations add social workers registered in England, Wales, Northern Ireland or Scotland, as well as dental care professionals, hearing aid dispensers, and nurses and

midwives registered in the UK to the list of regulated health professionals for the purposes of the Registered Health Professionals Ordinance, 2006 ("the 2006 Ordinance").

No one will be able to practise, hold themselves out as practising or as being prepared to practise, as a regulated health professional unless they are registered under the relevant regulated health profession in the register kept by the Health and Social Services Department ("the Department") under the 2006 Ordinance. A person will need to satisfy the Department that they are a regulated health professional before the Department can enter their name on the register kept under the 2006 Ordinance.

By virtue of the Alderney (Application of Legislation) (Registered Health Professionals) Ordinance, 2006, these Regulations have effect in Alderney as they have effect in Guernsey, Herm and Jethou, subject to modifications made by that Ordinance.

These Regulations came into force on the 5th November, 2015.

THE MISUSE OF DRUGS (MODIFICATION) ORDER, 2015

In pursuance of Section 30(3) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended, "The Misuse of Drugs (Modification) Order, 2015", made by the Health and Social Services Department on 2nd September 2015, is laid before the States.

EXPLANATORY NOTE

This Order amends the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 ("the Law") and the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1997 ("the Ordinance").

Article 2 of this Order brings a potent opioid known as MT-45 and a synthetic stimulant known as 4,4'-DMAR under control as Class A drugs under the Law.

Article 3 of this Order corrects the name of a substance listed in the First Schedule to the Law.

Articles 5 and 6 of this Order correct various references to "paragraph" and "paragraphs" in several provisions of the Ordinance. The correct references are to "subsection" and "subsections" respectively.

Article 7 of this Order inserts a new section 6A into the Ordinance, to authorise nurse independent prescribers and pharmacist independent prescribers to prescribe controlled drugs specified in Schedule 2, 3, 4 or 5. This new section 6A has been inserted into the Ordinance for consistency with the Prescription Only Medicines (Human) (Bailiwick of Guernsey) Ordinance, 2009.

Article 8 of this Order amends section 7 of the Ordinance to exempt ketamine from the restrictions on supplying or offering to supply controlled drugs, where this is done by

specified healthcare professionals in accordance with the terms of a Patient Group Direction, except where the drug is administered for the purposes of treating addiction.

Articles 9 and 11 of this Order remove references to temazepam and midazolam in sections 13(1) and 14(5) of the Ordinance, so that these two controlled drugs are no longer exempt from requirements relating to the form of prescriptions.

Article 10 of this Order corrects the reference to "paragraph" in section 13(2)(b)(iii). The correct reference is to "subparagraph".

Article 12 of this Order inserts MT-45 and 4,4'-DMAR in Schedule 1 to the Ordinance. The schedule of the Ordinance in which a controlled drug is placed primarily affects the extent to which the drug can be lawfully imported, exported, produced, supplied or possessed and dictates the record keeping, labelling and destruction requirements in relation to that drug. The controlled drugs placed in Schedule 1 to the Ordinance are those subject to the tightest controls.

Articles 13 and 15 of this Order move ketamine from Part 1 of Schedule 4 to the Ordinance to Schedule 2 to that Ordinance. This effectively tightens the legal controls on ketamine.

Article 14 of this Order amends the heading of Schedule 3 to the Ordinance to remove the reference to temazepam and midazolam being exempt from the requirements of section 13 of the Ordinance.

This Order came into force on the 30th day of November, 2015.

THE REGISTERED HEALTH PROFESSIONALS (AMENDMENT AND COMMENCEMENT) ORDER, 2015

In pursuance of Section 9(3) of The Registered Health Professionals Ordinance, 2006, as amended, "The Registered Health Professionals (Amendment and Commencement) Order, 2015", made by the Health and Social Services Department on 4th November 2015, is laid before the States.

EXPLANATORY NOTE

This Order amends the Schedule to the Registered Health Professionals Ordinance, 2006 ("the 2006 Ordinance") to add social workers and social care professionals, various dental care professionals, practitioner psychologists, hearing aid dispensers, nurses, midwives and health visitors to the list of regulated titles under the Ordinance.

No one will be able to use any of the titles or descriptors in the right-hand column of the table replacing that Schedule unless their name appears on the register maintained by the Health and Social Services Department under the 2006 Ordinance.

This Order also brings into force, from the 5th November, 2015, those restrictions and offences in the 2006 Ordinance relating to practice as a regulated health professional, the use of titles, and the provision of medical services or use of medical techniques and procedures by regulated health professionals.

By virtue of the Alderney (Application of Legislation) (Registered Health Professionals) Ordinance, 2006, the provisions of this Order have effect in Alderney as they have effect in Guernsey, Herm and Jethou, subject to modifications made by that Ordinance.

This Order came into force on the 5th November, 2015.

**THE REGISTERED PLANT BREEDERS' RIGHTS (FARM SAVED SEED)
(DISCONTINUATION OF PRIOR USE EXEMPTION)
(BAILIWICK OF GUERNSEY) ORDER, 2015**

In pursuance of section 43 (3) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, “The Registered Plant Breeders' Rights (Farm Saved Seed) (Discontinuation of Prior Use Exemption) (Bailiwick of Guernsey) Order, 2015”, made by the Commerce and Employment Department on 22nd October 2015, are laid before the States.

EXPLANATORY NOTE

This Order, made in pursuance of section 18(6) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, discontinues section 18(5) of that Ordinance which enabled a farmer who had, before commencement of the Ordinance, used propagating material of a protected variety without paying any remuneration to the proprietor of the rights, to continue to do so.

This Order came into force on the 23rd day of October, 2015.

**THE FINANCIAL SERVICES OMBUDSMAN (ELIGIBLE COMPLAINANTS)
(BAILIWICK OF GUERNSEY) ORDER, 2015**

In pursuance of section 27(3) of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014, “The Financial Services Ombudsman (Eligible Complainants) (Bailiwick of Guernsey) Order, 2015”, made by the Commerce and Employment Department on 8th October 2015, is laid before the States.

EXPLANATORY NOTE

This Order permits, for the purpose of the Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014 ("the Law"), charities with an annual income of less than £2,000,000, or charities which are eligible complainants under the Jersey Financial Ombudsman Scheme, to complain to the Guernsey Financial Services Ombudsman.

This Order came into force on the 16th day of November, 2015.

**THE AVIATION SECURITY (BAILIWICK OF GUERNSEY) (AMENDMENT)
DIRECTION, 2015**

In pursuance of section 178(4) of the Aviation (Bailiwick of Guernsey) Law, 2008, “The Aviation Security (Bailiwick of Guernsey) (Amendment) Direction, 2015”, made by the Commerce and Employment Department on 24th September 2015, is laid before the States.

EXPLANATORY NOTE

This Direction came into force on 1st day of October, 2015.

POLICY COUNCIL

MEASURING RELATIVE POVERTY AND INCOME INEQUALITY IN GUERNSEY AND ALDERNEY

1 Executive Summary

- 1.1. “Relative poverty” and “income inequality” are important societal issues which need to be monitored effectively so that suitable actions can be identified to ensure that households are not unduly suffering from deprivation. The States of Guernsey currently profile the proportion of people living in households which are at risk of suffering from relative poverty, as measured by a Relative Low Income Threshold of households with “less than 60% of median income”. This data is published annually in the States Strategic Monitoring Report; however, there is no complementary measure for income inequality.
- 1.2. The data used to calculate figures of relative poverty in Guernsey in the past has not been consistent and the methodology used has not reflected international best practice due to a lack of accurate and consistent data. Improvements have been made in recent years to overcome these challenges and enable historically comparable figures to be calculated and published. Nonetheless, following review, further changes are needed to ensure that the published figures measuring relative poverty provide an accurate representation of the Island’s population that can be consistently monitored over time.
- 1.3. The Policy Council’s recommendations, therefore, comprise methodological changes to the Relative Low Income Threshold measure currently used, including a more detailed profile of the composition of households identified as at risk of poverty, together with the introduction of a suite of complementary measures to provide supporting data to establish a Multidimensional Poverty Indicator for Guernsey. The introduction of these changes should be possible at minimal cost and should also enable the calculation of relative poverty figures for Alderney in the future.
- 1.4. It is also proposed that the Policy and Resources Committee further investigate the possibility of complementing these measures by conducting a periodic Minimum Income Standard study. Unlike those measures which the Policy Council is recommending for immediate implementation, a Minimum Income Standard study would involve a financial cost and additional staff resources (see paragraph 15.3). However, to help offset these, the Guernsey Community Foundation has agreed, in principle, to share the costs of such a study.
- 1.5. In addition, the Policy Council has researched different methods of measuring income inequality that are employed internationally, and has identified two methodologies that would be suitable for use in Guernsey.

- 1.6. Recommendations for these changes satisfy Resolutions arising from debate of the Medical Officer of Health's 113th Annual Report¹ (Billet d'État VIII, 2013), which directed the Policy Council to carry out an assessment of whether to:
- "... establish as expeditiously as possible the size and profile of that part of the population whose income falls below a recognised minimum level of income."
 - "... establish as expeditiously as possible a measurement of income inequality."
- 1.7. The States are asked to support the changes that are suggested to improve the current methodology used to monitor relative poverty, as well as the introduction of supplementary measures to give a greater understanding of the extent of relative poverty and income inequality in the Island.

2 Background

- 2.1. In May 2013, the States debated the Medical Officer of Health's 113th Annual Report, which took "Health Equity" as its special theme and focused on poverty as the largest preventable cause of ill-health worldwide.
- 2.2. The States were recommended simply to note the Report but, following debate on a number of amendments, made a number of Resolutions, among which were the following:

"2. *To direct that by no later than July, 2014, and after consultation with the relevant States Departments and the Medical Officer of Health, the Policy Council, in accordance with that part of its mandate which makes it responsible for "...the co-ordination of action to enable the implementation of the States Strategic Plan..." and in order to contribute towards fulfilling the Social Policy Plan general objective of "equality of opportunity, social inclusion and social justice" (Resolution 3 on Billet d'État VI of 2013), shall report to the States of Deliberation setting out its considered response to Recommendation 2 of the Medical Officer of Health's 113th Annual Report, which considered response shall include an assessment of whether to establish as expeditiously as possible the size and profile of that part of the population whose income falls below a recognised minimum level of income.*

...

4. *To direct that by no later than July, 2014, and after consultation with the relevant States Departments and the Medical Officer of Health, the Policy Council, in accordance with that part of its mandate which makes it responsible for "...the co-ordination of action to enable the implementation of the States Strategic Plan..." and in order to contribute*

¹ Billet d'État VIII, 2013, Health and Social Services Department, 113th Medical Officer of Health Annual Report – page 558.

towards fulfilling the Social Policy Plan general objective of “equality of opportunity, social inclusion and social justice” (Resolution 3 on Billet d’État VI of 2013), shall report to the States of Deliberation setting out its considered response to Recommendation 7 of the Medical Officer of Health’s 113th Annual Report, which considered response shall include an assessment of whether to establish as expeditiously as possible a measure of income inequality”.

3 The Importance of Measuring Relative Poverty and Income Inequality

3.1. Definitions

- 3.1.1. When analysing the extent of poverty within Guernsey it is important to understand what exactly is being measured.
- 3.1.2. As defined by the United Nations², “relative poverty” refers to a lack of income to ensure sustainable livelihood, but it is also characterised by a lack of participation in civil, social and cultural life.
- 3.1.3. By contrast, “absolute, or extreme, poverty” is a condition of severe deprivation of basic human needs such as food and shelter.
- 3.1.4. “Income inequality” is a measure of the extent to which income is distributed in an uneven manner among a population³.

3.2. What needs to be measured and why

- 3.2.1. In the context of Guernsey it is *relative poverty* and *income inequality* that need to be accurately measured, as although the Island is generally accepted to be a wealthy society, there are some individuals who, for a variety of reasons, are not able to enjoy a standard of living or a level of participation in society that would be deemed socially acceptable.
- 3.2.2. Given the existence of a non-contributory social welfare system in Guernsey, it is unlikely that there are households with an income level so low that they could be classified as suffering absolute or extreme poverty as defined above, i.e. without the most basic access to food, shelter and clean water. Nevertheless, homelessness does occur in Guernsey, albeit rarely, although low income is not usually the sole reason for it. However, a low level of income in Guernsey can prevent individuals from being able to purchase basic items which are needed to remain healthy, such as fresh fruit and vegetables, or to access primary health care easily.

² United Nations (UN), 1995, *The Copenhagen Declaration and Programme of Action*, New York, NY: UN, [online], available at: <<http://www.un.org/esa/socdev/wssd/text-version/agreements/poach2.htm>>, [accessed 13 October 2015]

³ Inequality.org, *Income Inequality*, [online], available at: <<http://inequality.org/income-inequality/>>, [accessed 11 September 2015]

- 3.2.3. Article 25 of the Universal Declaration of Human Rights⁴ places an obligation on governments to tackle poverty and income inequality, stating that:

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

- 3.2.4. It is, therefore, important that relative poverty and income inequality are measured, as poverty has been considered the largest determinant of ill-health and well-being and can negatively affect other social outcomes for individuals⁵. For example, research has highlighted that children living in relative poverty are less likely to do well at school⁶, and are more likely to experience health problems as they grow older⁷. (The latter point has been identified and evidenced in the research and consultation for the new Children and Young People’s Plan⁸.)
- 3.2.5. Similarly, greater income inequality has been linked to lower life expectancy and higher infant mortality rates⁹.
- 3.2.6. At the other end of the age spectrum, the older generation can also suffer from the negative effects of relative poverty. In the UK, Age UK has estimated that across Britain 16% of pensioners live in poverty.
- 3.2.7. Age UK has reported¹⁰ that for older people, the effects of having a fixed, and limited, income vary from cutting back on essentials, such as heating, to ceasing social activities and holidays, all of which, over time, can become emotionally draining.
- 3.2.8. Older people on low incomes tend to go without things that most people would take for granted, such as buying healthy, fresh produce or replacing broken

⁴ United Nations (UN), *The Universal Declaration of Human Rights*, [online], available at: <<http://www.un.org/en/documents/udhr/>>, [accessed 14 October 2015]

⁵ World Health Organisation (WHO), 1999, *Health 21 – The health for all policy framework of the WHO European Region*, [online], available at: <http://www.euro.who.int/_data/assets/pdf_file/0010/98398/wa540ga199heeng.pdf>, [accessed 14 October 2015]

⁶ Hirsch.D., 2007, *Experiences of Poverty and Educational Disadvantage*, Joseph Rowntree Foundation, [online], available at: <<http://www.jrf.org.uk/sites/files/jrf/2123.pdf>>, [accessed 12 August 2015]

⁷ Griggs.J. & Walker.R., 2008, *The Costs of Child Poverty for Individuals and Society*, Joseph Rowntree Foundation, [online], available at: <<http://www.jrf.org.uk/system/files/2301-child-poverty-costs.pdf>>, [accessed 12 August 2015]

⁸ *An Outline of the Children and Young People’s Plan*, [online], available at: <<http://www.gov.gg/cypp>>, [accessed 13 October 2015]

⁹ Inequality.org, A Project of the Institute for Policy Studies, *Inequality and Health*, [online], available at: <<http://inequality.org/inequality-health/>>, [accessed 19 August 2015]

¹⁰ Hill.K., Hirsch.D. & Sutton.L., 2011, *Living on a Low Income in Later Life*, Age UK, [online], available at: <http://www.ageuk.org.uk/Documents/EN-GB/For-professionals/Research/Living_on_a_low_income_full_report.pdf?dtrk=true>, [accessed 29 October 2015]

furniture or appliances. As one participant in an Age UK focus group explained, *“I worry that I am buying what I can afford, rather than what I really ought to have to keep me healthy.”*

- 3.2.9. Having accurate and consistent measures of relative poverty and income inequality will thus help to inform and direct future social policies and welfare provision for the entire community, from children to the elderly and those in between.

3.3. Past measurement methodologies

- 3.3.1. The current measure used by the States of Guernsey to assess the extent of relative poverty in the Island is a Relative Low Income Threshold of “less than 60% of equivalised¹¹ median national income”, which is a population-based measure which provides an indication of inequality within society. Currently any household which falls beneath this Threshold is counted as being at risk of relative poverty, and there is some profiling in the States Strategic Monitoring Report of the population considered at risk (for example the percentage of children who live in households below the Threshold). However the methodology that is used has not allowed for consistent monitoring over time (see section 4).
- 3.3.2. A Minimum Income Standards approach has also previously been used to assess levels of relative poverty in Guernsey. A report commissioned by the Social Security and Housing Departments led to the publication of “A Minimum Income Standard for Guernsey” in 2011¹². This method established the minimum income required for a household to purchase a set basket of goods and services which would allow for an acceptable standard of living on the Island, as defined by a sample of the Island population. (See Appendix 1 for an explanation of the strengths and weaknesses of different measures of relative poverty).
- 3.3.3. There has been no previous regular reporting on income inequality in Guernsey.

4 Issues with accuracy and international comparability

- 4.1. The measure currently used to assess levels of relative poverty in Guernsey is similar to internationally standard measures, but does not include housing costs as a part of the calculations owing to an historic lack of data. As a result, the current profile of the population deemed to be at risk of relative poverty may not be accurate as it does not account for individuals who may be considered “asset rich but income poor”, or those social housing tenants in receipt of housing assistance in the form of a rent rebate who may, if their housing costs are not considered, appear more at risk than they are. Equally, the lack of housing data may understate the risk of poverty among households whose housing costs are higher than

¹¹ Equivalisation is a technique used to adjust household income data to enable comparison between different household types (i.e. different numbers of people of different ages).

¹² Davis.A., Hirsch.D. & Smith.N., 2011, *A Minimum Income Standard for Guernsey*, Loughborough University: Centre for Research in Social Policy.

average; typically families in privately rented accommodation or those with a large mortgage.

- 4.2. This limitation has led to Guernsey's measure not being internationally comparable with those of other similar jurisdictions, which do include housing costs in their calculations.
- 4.3. Standard international measures also include a measure of the value of public services received, such as health care and education, to adjust for the difference in provision in different countries and the impact this has on a household's circumstances. While this is not a priority for Island monitoring, it is an area which will be necessary to consider if the States wish to make international comparisons.
- 4.4. More crucially, the methodology used in Guernsey has changed over time from using a Household Expenditure Survey to collect income data, to using anonymised data from administrative sources such as Social Security and Income Tax. As a result of this changing methodology, it has proved difficult for the States to calculate figures of relative poverty accurately that can be compared over a longer period.
- 4.5. Therefore, although the current measure used in Guernsey of "less than 60% of median income" is considered to be international best practice, the methodology used to calculate it will need to be changed to ensure that the resulting figures are accurate and internationally comparable. The necessary changes include using a measure of housing costs in the calculations as well as having a larger sample size, which the new Rolling Electronic Census will address. The inclusion of a measure of the value of public services is also currently being investigated (see paragraph 7.3).

5 Alternative methodologies

- 5.1. Even after the methodology has been amended, it remains the case that the "less than 60% of equivalised median income" measure can be seen as arbitrary, as, although the factors are correlated, low income alone does not necessarily indicate poor social outcomes. Indeed, some countries/organisations use different thresholds for measuring relative poverty: for example the Organisation for Economic Co-operation and Development (OECD) and the Luxembourg Income Study use a threshold of "less than 50% of equivalised median income". A threshold of "less than 70% of equivalised median income" is also used in many EU countries as a sensitivity measure to highlight households that are just above the 60% threshold.
- 5.2. A further issue is that this measure of relative poverty focuses solely on income and does not reflect what are considered to be socially acceptable living standards.
- 5.3. A more consensual, cost-based approach to measuring relative poverty within society will be to use a Low Income Threshold, or Minimum Income Standard,

method. This has been the approach favoured by the Guernsey Community Foundation¹³ to measure relative poverty in Guernsey, and was also the method used by Loughborough University to inform the review of the Supplementary Benefit system in 2011. This method is outlined in paragraph 3.3.2 of this report.

- 5.4. A third approach would be to adopt a Multidimensional Poverty Indicator. Multidimensional Poverty Indicators are used to measure the depth of material deprivation in a given society across a range of indicators and do not focus solely on income levels.
- 5.5. All three approaches present different perspectives on relative poverty and income inequality:
 - A Relative Low Income Threshold provides a clearly defined, numerical parameter against which relative income can be measured routinely on a consistent basis with minimal subjectivity.
 - A Minimum Income Standard study provides a measure of relative poverty which incorporates the consensus opinion of the community about what constitutes an acceptable standard of living.
 - A Multidimensional Poverty Indicator considers wider indicators of deprivation, extending the consideration from the income-based measures described above to include aspects such as health, education and employment
- 5.6. The relative strengths of various measures are presented in more detail in Appendix 1.

6 Measuring relative poverty: the recommended way forward

- 6.1. Having reviewed the advantages and disadvantages of various methodologies, the Policy Council is recommending reporting annually on relative poverty through a combination of an improved Relative Low Income Threshold (less than 60% of equivalised median income) plus a Multidimensional Poverty Indicator. Both these measures can be calculated from data already collected by Departments and can be pursued at minimal cost.
- 6.2. In addition to these measures, the Policy Council also recommends the periodic calculation of a Minimum Income Standard for Guernsey.

¹³ Guernsey Community Foundation, 2013, *Poverty Measurement Research – Part One*, Guernsey: Island Analysis.

7 Improving the Relative Low Income Threshold (less than 60% of equivalised median income)

- 7.1. As previously described, this measure is already in use in Guernsey and is the most widely recognised international measure of relative poverty.
- 7.2. As acknowledged earlier in this report, there are underlying issues with the consistency of this data and the lack of suitable housing cost data to calculate this measure in accordance with international guidelines. However, the introduction of the Rolling Electronic Census has provided an opportunity to obtain considerably more accurate data, as explained in paragraph 13.1.
- 7.3. For the purpose of international comparison, the measure will be enhanced by inclusion of a measure of the value of public services received by households. However, it is important to note that very few jurisdictions collect sufficient data to enable analysis of the value of public services to individual households, so this is typically assessed by applying a profile of costs based on the composition of sampled households. (For example, households with school age children would be assumed to be in receipt of education services at an average rate for the age of their children).
- 7.4. The work conducted by BDO in 2015 to assess the unit cost of health and social care services in Guernsey¹⁴ will also be of considerable assistance in this regard; therefore, when this is combined with the data available on education costs, it should be possible to compile comparatively sophisticated profiling of public service costs in Guernsey.

8 Profiling

- 8.1. As noted in paragraph 1.6, the Resolutions also directed the Policy Council to consider identifying the “*profile of that part of the population whose income falls below a recognised minimum level of income.*”
- 8.2. This is an important aspect of measuring and monitoring relative poverty and income inequality, as it provides an understanding of who is likely to be affected by poverty, and how policy or community-level interventions might effectively target them.
- 8.3. Based on the availability of data and data analysis capability and capacity, it will be possible to profile the relative income of the population according to: (i) household type (e.g. single adults, couples, couples with children, etc.); and (ii) the housing tenure of the household. Over time it may be possible to extend this profiling to look at other aspects of a household’s circumstances.

¹⁴ BDO were commissioned by the Treasury and Resources and Health and Social Services Departments (HSSD) to examine the unit cost of services within HSSD, and to compare them with other similar services elsewhere.

- 8.4. The depth of relative poverty within Guernsey will also be able to be calculated through use of further Relative Low Income Thresholds of “less than 50% of median equivalised income” and “less than 40% of median equivalised income”. This will enable a more detailed profile of the population to be established, highlighting households which are at a greater risk of more intense deprivation.

9 Developing a Multidimensional Poverty Indicator

- 9.1 As outlined in paragraphs 5.4 and 5.5 above, a Multidimensional Poverty Indicator will consider wider indicators of deprivation, including aspects such as health, education, and employment, as well as income-based measures of poverty. This will help to give a more accurate and rounded picture of the deprivation suffered.
- 9.2. In relation to the introduction of a Multidimensional Poverty Indicator¹⁵, the Policy Council has adapted the UK set of measurements to make them bespoke for Guernsey, using data that is already collected and readily available from a variety of sources.
- 9.3. The use of wide-ranging measurements is important because they will measure deprivation as a whole – in the context of a general lack of resources and opportunity – rather than focussing solely on low income. Use of these measurements will, therefore, allow for a more in-depth assessment of relative poverty in Guernsey.
- 9.4. The measurements that will be used are as follows¹⁶:
- **Income Deprivation Domain** – a combined count of income deprived individuals is calculated by adding together the following measurements:
 - *Adults and children in families receiving Supplementary Benefit*
 - *Adults and children in families receiving Unemployment Benefit*
 - *Adults and children in families receiving Supplementary Benefit in addition to the Old Age Pension*
 - *Adults and children in families who are not in receipt of Supplementary Benefit, Unemployment Benefit or the Old Age Pension, whose equivalised income (excluding housing benefits) is below 60% of the median after housing costs*

¹⁵ Department for Communities and Local Government, 2015, *The English Indices of Deprivation 2015*, London: Department for Communities and Local Government, [online], available at: <<https://www.gov.uk/government/publications/english-indices-of-deprivation-2015-technical-report>>, [accessed 13 October 2015]

¹⁶ See Appendix 2 for a complete explanation of what the measurements are. Measurements noted in italics are the equivalents of those used in the English Indices of Deprivation, which will allow for some comparison to be made between Guernsey and the UK.

- **Employment Deprivation Domain** – a combined count of employment deprived individuals¹⁷ is calculated by adding together the following measurements:
 - *Claimants of Unemployment Benefit aged 18-64, averaged over 4 quarters*
 - *Claimants of Invalidity Benefit aged 18-64, averaged over 4 quarters*
 - *Claimants of Severe Disability Benefit aged 18-64, averaged over 4 quarters*
- **Health Deprivation Domain** – the measurements used to calculate this domain are:
 - *Years of Potential Life Lost*
 - *Comparative Illness and Disability Ratio*
 - *Measures of Acute Morbidity*
 - *Proportion of adults under 60 suffering from mood or anxiety disorders*
 - *Excess Winter Mortality*
 - *Foregone Primary Care due to cost*
- **Education, Skills and Training Deprivation Domain** – the measurements used to calculate this domain are:
 - *Average points score of pupils taking English, Maths and Science Key Stage 2 exams*
 - *Average capped points score of pupils taking Key Stage 4 (GCSE or equivalent) exams*
 - *Proportion of young people not staying on in school or non-advanced education above age 16*
 - *Secondary school absence rate – the proportion of authorised and unauthorised absences from secondary school*
 - *Proportion of those aged under 21 not entering Higher Education*
 - *Number of families applying for uniform grants*
- **Barriers to Housing Domain** - the measurements that are combined to calculate this domain are:
 - *Proportion of households in overcrowded conditions*
 - *Proportion of households not in social housing spending in excess of 40% of their income on housing*
- **Crime Domain** – the measurements used to calculate this domain are:
 - *Violent Crime*
 - *Burglary*
 - *Theft*
 - *Criminal Damage*

¹⁷ There is some degree of overlap between the measures in this domain (e.g. it is possible to claim both invalidity benefit and severe disability benefit); however, the available data should enable any double counting to be identified and the combined count adjusted accordingly.

- **Living Environment Deprivation Domain** – four measurements are combined to calculate this domain:

Sub-domain: The indoors living environment

- *Social and private housing in poor condition*
- *Houses without central heating*

Sub-domain: The outdoors living environment

- *Air Quality*
- *Road Traffic Accidents*

- 9.5. To calculate the extent of deprivation in Guernsey, each of the above measurements will be calculated separately. The measurements within each domain will then be combined to produce a “domain score” of deprivation, either by adding together any non-overlapping measurements, such as those used in the Income Deprivation Domain, or by using pre-determined weightings to illustrate their relative importance, such as in the Living Environment Deprivation Domain¹⁸.
- 9.6. The seven domain scores will then be combined using pre-determined weightings, outlined in Appendix 2, to provide an overall result of multi-dimensional deprivation in the Island.
- 9.7. A substantial amount of work has already been undertaken in the UK on collating information, analysing the correlation between measurements and establishing appropriate weightings, so it would be impractical to attempt to repeat this exercise in Guernsey given the limited resources available. Therefore, it is intended that the weightings used in the English Indices of Deprivation will be used as a base-line for the determination of the weightings which will be used in Guernsey.
- 9.8. However, given that different conditions apply, the Policy Council, and in due course the Policy and Resources Committee, will keep the weightings used under review throughout the development process to ensure that they are appropriate for Guernsey.
- 9.9. Insofar as comparisons with other jurisdictions are concerned, the Multidimensional Poverty Indicator will not be able to be used for the purpose of international comparison at a headline level as the measurements used are not all identical to those used in the UK. However, many of the specific measurements are comparable with those used in the UK and, therefore, at the more detailed level, some degree of benchmarking will be possible.

¹⁸ Not only the domains themselves but also some of the indicators within particular domains need to be weighted.

10 Periodic Minimum Income Standard studies

- 10.1. As noted in paragraph 5.3, the Minimum Income Standard method is a consensual, cost-based approach to measuring relative poverty. During the course of consultation, both the Medical Officer of Health and the Guernsey Community Foundation stated that periodic Minimum Income Standard studies should form part of the tools at the States' disposal. In particular, the Guernsey Community Foundation indicated that a Minimum Income Standard would be its preferred methodology.
- 10.2. Via the Medical Officer of Health, the advantages and disadvantages of its inclusion were, therefore, discussed with the Deputy Director of the Institute of Health Equity at University College London¹⁹, who advised that the Minimum Income Standard method was important for identifying households which are not receiving enough income to live a healthy and socially included life. However, taken alone it may not identify the current economic situation of particular households, e.g. those with atypical needs that drive up their costs, nor pick up specific household issues, e.g. levels of indebtedness.
- 10.3. The Deputy Director advised that the Minimum Income Standard and the Relative Low Income Threshold provided different, but complementary, means of identifying individuals at risk of relative poverty. However, whereas the Relative Income Threshold could be calculated annually, a Minimum Income Standard study should be undertaken at suitable intervals; this reflects the fact that the cost and staff resources required to produce a Minimum Income Standard, and the changing nature of what a society considers necessary for a suitable standard of living, make it less appropriate an indicator for annual monitoring than the other methodologies discussed in this report. Nevertheless it provides a periodic reality check on the annual low income threshold and its relevance to different types of household.
- 10.4. The Policy Council does not consider that undertaking a Minimum Income Standard study is as important as putting in place the other measures outlined in this report but, recognising that it is informative, the Policy and Resources Committee will consider undertaking a Minimum Income Standard study on a 5-yearly basis, subject to the necessary resources and funding being available. (Resourcing and funding are considered below: see paragraphs 15.3 and 15.4.)

11 Measuring Income Inequality

- 11.1. With respect to income inequality, there are two internationally recognised measurements – the Gini Coefficient and the S90/S10 Income Ratio – of which the former is the most widely used. (See Appendix 3 for an explanation of what these are and how they are calculated.) These technical indicators are used to show the extent to which wealth is equally distributed among the population.

¹⁹ The Institute of Health Equity at University College London focuses on the measurement and monitoring of European and international projects to review the social determinants of health.

- 11.2. The Policy Council intends to publish both technical indicators annually, each of which will allow for international comparisons to be drawn with other jurisdictions.

12 Relative Poverty and Income Inequality figures for Alderney

- 12.1. Given the fiscal unity between Guernsey and Alderney, and Guernsey's responsibility for many of the latter's services, it is important that as the methodology for measuring relative poverty and income inequality are developed, separate results should be produced for Alderney.
- 12.2. Of particular note, work in the UK²⁰ has illustrated that the methodology used to calculate a multidimensional poverty indicator is suitable for use with small populations of approximately 1500 people, such as Alderney.
- 12.3. However, statistics relating to relative poverty can be volatile, and so any calculations made for Alderney will still need to be treated with care owing to the small size of its population.

13 Data collection and reporting

- 13.1. Having identified issues with historic data sources, the Policy Council proposes utilising the Rolling Electronic Census to expand the sample of households used in the Relative Low Income Threshold calculation and thereby to improve the depth and integrity of the raw data. It will also, as noted above, incorporate measures of housing and public service costs to bring the measurement in line with international best practice. This would allow both for a more accurate measurement of relative poverty in the Islands, and for comparisons to be made with other jurisdictions with similar public service provision.
- 13.2. The majority of the data chosen to calculate the Multidimensional Poverty Indicator is already collected by the States of Guernsey. The Policy Council will, therefore, collect the necessary data from relevant States' Departments; once this information has been collated and weighted, figures showing the level of relative poverty in Guernsey will then be calculated and published on an annual basis²¹.
- 13.3. It is anticipated that the first publication of the improved Relative Low Income Threshold measure, plus the new Multidimensional Poverty Indicator and Income Inequality measures, will be in mid-2016. This will be via an annual bulletin, similar to those currently published by the Policy and Research Unit on topics

²⁰ Department for Communities and Local Government, 2015, *The English Indices of Deprivation 2015*, London: Department for Communities and Local Government, [online], available at: <<https://www.gov.uk/government/publications/english-indices-of-deprivation-2015-technical-report>>, [accessed 13 October 2015]

²¹ Not all of the information required for the calculation of multidimensional indicators is available on an annual basis. Data from the Housing Needs and Health and Wellbeing surveys, for example, are only available on a five yearly basis. Nonetheless, the Policy Council would seek to produce these statistics on an annual basis utilising the most recent available data within each domain.

such as Population and Median Earnings.

- 13.4. A summary of the results will also be included in the States Strategic Monitoring Report.

14 Consultation

- 14.1. In accordance with the 2013 Resolutions, there has been consultation with the Medical Officer of Health and at a political level with the Social Security Department, the Social Welfare Benefits Investigation Committee, and the States of Alderney's Policy and Finance Committee. All these respondents were supportive, and any specific comments have been taken into account in finalising this report²². The Law Officers have also been consulted about the proposals contained within this Policy Letter.
- 14.2. In addition, there have been officer level discussions with each of the Departments whose data it is proposed to use for the purposes of calculating a Multidimensional Poverty Indicator for Guernsey.
- 14.3. There has also been consultation with the Institute of Health Equity at University College London and with the Guernsey Community Foundation, the latter having shown a longstanding interest in the measurement and alleviation of poverty in Guernsey. The research it had commissioned into the ways that a number of other islands measure poverty was shared with the Policy Council and has been used to inform the preparation of this report.
- 14.4. The Policy Council would like formally to record its thanks to the Guernsey Community Foundation for the funding of the additional staff resources that enabled this report to be researched and prepared.

15 Resource Implications

- 15.1. It is estimated that methodological development of both the Relative Low Income Threshold and the Multidimensional Poverty Indicators will require an estimated 150 to 200 staff hours, with an estimated 50 to 70 hours per year required to maintain these measures going forward, and these costs can be met within existing resources.
- 15.2. There are minimal non-staff costs associated with the collection of data and the calculation of the Relative Low Income Threshold and Multidimensional Poverty Indicator. Presently, these costs can be met from within existing resources but,

²² The Social Welfare Benefits Investigation Committee raised a specific issue that if, for example, welfare reform resulted in more people being supported this would falsely indicate an increased level of poverty. However, if such a scenario arose it would presumably be a response to more people needing welfare support and thus an accurate reflection of the situation. Moreover, by using a multidimensional indicator, improvements in one area – say welfare benefits – would be likely to have a positive effect on other measurements.

should there be a desire to adopt a new and more sophisticated methodology in the future, the costs and resources required would need to be reappraised.

- 15.3. The periodic commissioning of a Minimum Income Standard measurement, should it be progressed, would require a dedicated budget as data would need to be collected from a variety of sources before being collated and analysed. Based on previous work, it is estimated that to perform a Minimum Income Standard study would cost in the region of £50,000 for consultancy, plus the additional costs of recruiting additional temporary staff resources to assist the specialist consultants conduct the necessary fieldwork²³.
- 15.4. Funding considerations, therefore, preclude a formal recommendation to conduct a Minimum Income Standard at this time, particularly since there are other measures which can be progressed at minimal cost which could very quickly improve Guernsey's ability to monitor poverty and related issues. However, given its keen interest in the matter, the Guernsey Community Foundation has agreed, in principle, to share the costs of future Minimum Income Standard studies and, therefore, the Policy Council will investigate further the timing and funding of such studies.

16 Conclusions

- 16.1. Measuring relative poverty and income inequality are a crucial but complex area of policy monitoring, and the Policy Council will continue to track international developments on these topics in the future.
- 16.2. Immediately, however, the issues surrounding the calculation of relative poverty described in this report can be addressed both by improving the methodology used for the current Relative Low Income Threshold, and by introducing a suite of supplementary measures to provide a clearer picture of deprivation in the Island through the establishment of a Multidimensional Poverty Indicator.
- 16.3. The periodic calculation of a Minimum Income Standard would also provide information on the minimum income level which the community considers is required to sustain an acceptable standard of living on the Island, and highlight those types of households which do not reach this level.
- 16.4. In addition, the Policy Council can fill an information deficit by calculating and annually publishing two measures of income inequality, the Gini Coefficient and the S90/S10 Income Ratio.
- 16.5. The improvements suggested will allow for more accurate ongoing monitoring and reporting of relative poverty and income inequality in both Guernsey and Alderney. While these measurements will do nothing of themselves to reduce

²³ When calculated in 2011 by Loughborough University, it took a dedicated team of staff from the Housing and Social Security Departments 6 weeks to complete the necessary fieldwork for Guernsey.

poverty and income inequality, they will enable both Island communities to have a quantitative means to assess, year-on-year, the success of policies, initiatives and actions that have those objectives in mind.

- 16.6. The improved methodologies for monitoring relative poverty, through the Relative Low Income Threshold, and income inequality will also allow for comparisons to be made with other jurisdictions, as the measures used will better reflect international best practice.

17 Principles of Good Governance

- 17.1. This report has been prepared in accordance with the six Principles of Good Governance as defined in Billet d'État IV of 2011.

18 Recommendations

- 18.1. The States are asked:

- i) to note that, to improve the measurement of relative poverty, the method of calculating the Relative Low Income Threshold will be updated and improved as set out in Section 7 of this report;
- ii) to agree that, to improve and broaden the measurement of relative poverty, a Multidimensional Poverty Indicator, as described in Section 9 and Appendix 2 of this report, be published annually;
- iii) to note that, subject to the necessary resources and funding being available, the Policy and Resources Committee will consider undertaking a Minimum Income Standard Study, as described in paragraph 5.3, Section 10 and Appendix 2 of this report, on a five yearly basis;
- iv) to agree that the measures of income inequality described in Section 11 and Appendix 3 of this report be published annually.

J P Le Tocq
Chief Minister

9th November 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

Measures of Relative Poverty

The Policy Council conducted research into various methods that are used internationally to measure relative poverty. The strengths and weaknesses of the four principal measures are outlined below.

Relative Low Income Threshold

The Relative Low Income Threshold is the method that is currently used in the States Strategic Monitoring Report to measure relative poverty in Guernsey. This involves counting the number of individuals, or households, that fall beneath a certain percentage of national average income. The method used internationally can vary, but Guernsey, Jersey, the UK and the EU use less than 60% of equivalised median national income as the indicator for relative poverty.

Low Income Cut-Offs

Statistics Canada has developed Low Income Cut-Offs (LICOs) as a way to measure relative poverty within Canadian communities of varying sizes. These LICOs are defined as income thresholds below which a family will likely devote a larger share of its income to the necessities of food, shelter and clothing than the average family (of a similar household size). LICOs are calculated by finding the thresholds at which families of varying sizes, living in communities of varying sizes, are likely to spend 20% more of their disposable income on the three necessities listed above than the average household.

Minimum Income Standard

A more consensual, cost-based approach to measuring relative poverty within society is to use a Low Income Threshold, or Minimum Income Standard, method. This was the approach suggested by the Guernsey Community Foundation as the method to measure relative poverty in Guernsey, and was also the approach used by Loughborough University to inform the review of the Supplementary Benefit system in 2011. This method of measuring relative poverty involves specifying baskets of goods and services that are required by different types of households in order to meet their needs and to participate in society, and then calculating the minimum household expenditure required to purchase these goods. Focus groups from different household types are used to come to a consensus of what goods and services are considered to be essential items that no household living in their society should have to do without. Once these items are agreed upon they are then priced according to retailers specified by the focus groups.

Multidimensional Poverty Indicators

Multidimensional Poverty Indicators can be a useful way to measure material deprivation in a given society, to provide a measure of people who do not own or have access to items due to a lack of available income rather than due to personal choice. The use of multidimensional indicators allows for the depth of poverty in a given society to be measured. The multidimensional indicators which are suggested for use in Guernsey are listed in Appendix 2.

Strengths and Weaknesses of Measures of Relative Poverty

Measure of Poverty	Strengths	Weaknesses
<p>Relative Low Income Threshold (less than 60% of equivalised median income)</p> <ul style="list-style-type: none"> Dean, H., 2010, <i>Understanding Human Need</i>, Bristol: The Policy Press, University of Bristol Förster, M., Mira d'Ercole, M., 2009, <i>The OECD Approach to Measuring Income Distribution and Poverty: Strengths, Limits and Statistical Issues</i>, Organisation for Economic Co-operation and Development (OECD) The Cabinet Office Department of Statistics, 2008, <i>Low Income Thresholds - A Study of Bermuda Households in Need</i>, Bermuda: Government of Bermuda United Nations Economic Commission for Europe, 2011, <i>Canberra Group Handbook on Household Income Statistics</i>, Second Edition, Geneva: UN 	<ul style="list-style-type: none"> This most closely reflects Jersey/UK/EU measures – the Luxembourg Income Study and the EU use income as an ‘at-risk-of-poverty’ indicator (Förster & Mira d’Ercole, 2009). This is the most widely used measure in the developed world. Income focussed measures of poverty can be easily measured through surveys or census data. Easy to calculate so can enable consistent ongoing monitoring (but must maintain the same threshold for relative poverty over time). 	<ul style="list-style-type: none"> The choice of a threshold can be arbitrary (Guernsey uses ‘less than 60%’ whereas the OECD uses ‘less than 50%’). Different results can be produced depending on how data is processed (what indicator of poverty is chosen; mean vs median income; equivalisation; accuracy of data) (Dean, 2010). Due to its arbitrary nature a small shift in income could move a household from just below to just above the threshold but they may still be in need, so some households may not be counted as being in poverty but may still have additional needs (The Cabinet Office Department of Statistics (Bermuda), 2008). By having the poverty limit as a fraction of the median income it is not possible to have a poverty rate higher than 50% (United Nations Economic Commission for Europe, 2011). If the shape of distribution of income does not change then, regardless of a change in circumstances (e.g. 10% increase in income in real terms for everyone within a society), the same proportion of people

		<p>will always be below the poverty line (United Nations Economic Commission for Europe, 2011).</p> <ul style="list-style-type: none"> • To have a bigger picture of relative poverty requires more than just income data – if possible measures need to also look at asset wealth.
<p>Low Income Cut-Off</p> <ul style="list-style-type: none"> • Statistics Canada, 2013, <i>Low Income Cut-Offs</i>, [online], available at: http://www.statcan.gc.ca/pub/75f0002m/2012002/lico-sfr-eng.htm, [accessed 6 July 2015] 	<ul style="list-style-type: none"> • This measures the relationship between household income and the proportion spent on food, shelter and clothing. • There are different LICOs for different family sizes and for different community sizes, so relative poverty can be assessed more accurately depending on the situation in a given locality. 	<ul style="list-style-type: none"> • Developed by Statistics Canada, but little evidence of its use in any other countries. • Relative poverty is worked out based on historical consumption patterns, which may not still be valid. • This method requires household expenditure surveys to collect consumption data – this is more time consuming than using the data from the Rolling Electronic Census about income. • The rationale for adding 20% to average expenditure on food/clothing/shelter to show relative poverty seems arbitrary – people will spend different amounts on food/clothing depending on where they choose to shop and what they choose to buy.
<p>Low Income Threshold/ Minimum Income Standard</p> <ul style="list-style-type: none"> • Davis, A., Hirsch, D., Smith, N., 2011, <i>A Minimum Income Standard for Guernsey</i>, 	<ul style="list-style-type: none"> • This method can provide an idea of the minimum amount of money needed to reach an acceptable standard of living in a given society and to live a healthy life (so will 	<ul style="list-style-type: none"> • This method can be subjective – the food items are based on a nutritious diet that will satisfy nutritional needs (but people may not purchase these items) and the non-food items are meant to reflect

<p>Loughborough University: Centre for Research in Social Policy</p> <ul style="list-style-type: none"> • Dean, H., 2010, <i>Understanding Human Need</i>, Bristol: The Policy Press, University of Bristol • Förster, M., Mira d'Ercole, M., 2009, <i>The OECD Approach to Measuring Income Distribution and Poverty: Strengths, Limits and Statistical Issues</i>, Organisation for Economic Co-operation and Development (OECD) • The Cabinet Office Department of Statistics, 2008, <i>Low Income Thresholds - A Study of Bermuda Households in Need</i>, Bermuda: Government of Bermuda • United Nations Economic Commission for Europe, 2011, <i>Canberra Group Handbook on Household Income Statistics</i>, Second Edition, Geneva: UN 	<p>include money for clothes/eating out occasionally depending on the society people live in) – so it should illustrate the amount of money needed actively to participate in a given society rather than just survive.</p> <ul style="list-style-type: none"> • This method includes housing as a major part of household expenditure – this can provide a more accurate picture of expenditure and therefore people in relative poverty. • This measure can be updated annually to reflect inflation/rising costs of goods and services. • Using focus groups to come up with what is considered a necessity in a given society involves the community and a consensual method can illustrate what the majority of public opinion thinks. • This method is considered less arbitrary, because the community decides what is required for an acceptable standard of living within their own society (United Nations Economic Commission for Europe, 2011). 	<p>necessities (people have different opinions on what are necessities and what are luxuries).</p> <ul style="list-style-type: none"> • This subjectivity makes it harder to compare Guernsey with other jurisdictions, particularly where there are significant cultural differences, as what are considered necessities here may be seen as luxuries elsewhere, or vice versa. • It is time consuming to create, maintain and price a list of goods and services. To provide ongoing monitoring this may be a problem as costs would need to be updated every year to reflect inflation/changes in prices and the revised “cost” thresholds applied to household income data. • This method may not be an accurate way to track relative poverty over time, as needs/wants will change. Re-evaluating wants/needs may also lead to a lack of continuity in the data, because different focus groups will have different opinions on what the necessities are. • Requires an assumption that all households will have the same opinion on what should be considered as income, as well as how much is necessary to live in a given society (Canberra Handbook).
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<p>Multidimensional Poverty Indicators</p> <ul style="list-style-type: none"> • Alkire, S., Jindra, C., Robles Aguilar, G., Seth, S., Vaz, A., 2015, <i>Global Multidimensional Poverty Index</i>, Oxford: Oxford Poverty and Human Development Initiative • Department for Communities and Local Government, 2015, <i>The English Indices of Deprivation 2015</i>, London: Department for Communities and Local Government • Eurostat, 2010, <i>Income Poverty and Material Deprivation in European Countries</i>, Luxembourg: Publications Office of the European Union 	<ul style="list-style-type: none"> • This method would allow for ongoing monitoring across many areas of policy making, so progress in different areas could be followed over time. • It is broken down into indicators for income, education, health and standard of living. The results can be used to direct welfare provision and prioritise policy. • If a variation on the English Indices of Deprivation are used this would give a very in-depth look at relative poverty in Guernsey and could be used to assess levels of deprivation across different areas. 	<ul style="list-style-type: none"> • A lot of information would be needed to create an accurate picture of poverty. Data availability is good, but where data is missing or the structure of services is different comparison with the UK may be limited. • Could be a subjective way of measuring poverty, depending on how the indicators are chosen and weighted. • Depending on the indicators chosen, data collection may need to be done in the form of surveys – could be a time lag in data processing/analysis if this is the case.
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Appendix 2

Multidimensional Poverty Indicators for Guernsey

The measurements outlined below are split into 7 domains, which will provide a broad view of relative poverty in the Island. Within each domain different measurements have been chosen to provide as much information as possible about people who may be suffering from a particular type of deprivation. These measurements are based on the English Indices of Deprivation²⁴, and those which are broadly equivalent to English measurements are noted in italics.

- **Income Deprivation Domain** – this domain measures the proportion of the population experiencing deprivation related to low income. A combined count of income deprived individuals is calculated by adding together the following measurements:

- *Adults and children in families receiving Supplementary Benefit*
- *Adults and children in families receiving Unemployment Benefit*
- *Adults and children in families receiving Supplementary Benefit in addition to the Old Age Pension*
- *Adults and children in families who are not in receipt of Supplementary Benefit, Unemployment Benefit or the Old Age Pension, whose equivalised income (excluding housing benefits) is below 60% of the median after housing costs*

In addition to this domain index, two supplementary indices concerning deprivation could also be produced: an Income Deprivation Affecting Children Index and an Income Deprivation Affecting Older People Index. These two indices would represent the proportion of children aged 0-15 living in income deprived households and the proportion of older people aged 65 and over living in income deprived households respectively.

- **Employment Deprivation Domain** – this domain measures employment deprivation in an area conceptualised as involuntary exclusion of the working age population from the labour market. A combined count of employment deprived individuals²⁵ is calculated by adding together the following measurements:
 - *Claimants of Unemployment Benefit aged 18-64, averaged over 4 quarters*
 - *Claimants of Invalidity Benefit aged 18-64, averaged over 4 quarters*
 - *Claimants of Severe Disability Benefit aged 18-64, averaged over 4 quarters.*

- **Health Deprivation Domain** – this domain measures premature death and the

²⁴ Department for Communities and Local Government, 2015, *The English Indices of Deprivation 2015*, London: Department for Communities and Local Government, [online], available at: <<https://www.gov.uk/government/publications/english-indices-of-deprivation-2015-technical-report>>, [accessed 13 October 2015]

²⁵ There is some degree of overlap between the measures in this domain (e.g. it is possible to claim both invalidity benefit and severe disability benefit), however, the available data should enable any double counting to be identified and the combined count adjusted accordingly

impairment of quality of life by poor health. It considers both physical and mental health. The domain measures morbidity, disability and premature mortality, but not aspects of behaviour or environment that may be predictive of future health deprivation. The measurements used to calculate this domain are:

- *Years of Potential Life Lost – an age and sex standardised measure of premature death*
 - *Comparative Illness and Disability Ratio – an age and sex standardised measure of morbidity and disability*
 - *Measures of Acute Morbidity – an age and sex standardised rate of emergency admissions to hospital*
 - *Proportion of adults under 60 suffering from mood or anxiety disorders – a modelled indicator for the proportion of adults suffering from mood and anxiety disorders*
 - *Excess Winter Mortality – an age and sex standardised measure of seasonal variation on the number of deaths*
 - *Foregone Primary Care due to cost – adults and children in the ‘patient-pays’²⁶ group who had fewer consultations than the average for the ‘Insurer/States-pays’ groups²⁷*
- **Education, Skills and Training Deprivation Domain** – this domain measures the extent of deprivation in terms of education, skills and training in an area. The measurements used to calculate this domain are:
 - *Average points score of pupils taking English, Maths and Science Key Stage 2 exams*
 - *Average capped points score of pupils taking Key Stage 4 (GCSE or equivalent) exams*
 - *Proportion of young people not staying on in school or non-advanced education above age 16*
 - *Secondary school absence rate – the proportion of authorised and unauthorised absences from secondary school*
 - *Proportion of those aged under 21 not entering Higher Education*
 - *Number of families applying for uniform grants*
 - **Barriers to Housing Domain** - this domain measures the physical and financial accessibility of housing. The measurements that are combined to calculate this domain are:
 - *Household overcrowding – the proportion of households which are judged to have insufficient space to meet the household’s needs*
 - *Proportion of households not in social housing spending in excess of 40% of their income on housing*
 - **Crime Domain** – this domain measures the rate of recorded crime in an area for four major crime types representing the risk of personal and material

²⁶ ‘Patient-pays’ group: those who do not fall into either the Insurer or States-pays groups, and who are responsible for settling their own accounts for consultation charges.

²⁷ ‘Insurer/States-pays’ groups: those whose consultation charges are passed on to either a private insurer or Guernsey’s Social Security Department.

victimisation. The measurements used to calculate this domain are:

- *Violence – the number of reported violent crimes*
- *Burglary – the number of reported burglaries*
- *Theft – the number of reported thefts*
- *Criminal Damage – the number of reported incidents*

- **Living Environment Deprivation Domain** – this domain measures the quality of individuals' immediate surroundings both within and outside the home. The measurements fall into two sub-domains: the 'indoors' living environment, which measures the quality of housing, and the 'outdoors' living environment, which contains measures relating to air quality and road traffic accidents. The measurements which are combined to calculate this domain are:

Sub-domain: The indoors living environment

- *Social and private housing in poor condition*
- *Houses without central heating*

Sub-domain: The outdoors living environment

- *Air quality*
- *Road traffic accidents*

Availability of Data

The vast majority of the information required to calculate these measurements is already collected either by the Policy and Research Unit of the Policy Council, via the Rolling Electronic Census, or by various States' departments.

Officers from the Social Security Department have been consulted regarding the information required for the Income Deprivation and Employment Deprivation domains, and have noted that the measurements listed are available.

Officers from the Health and Social Services Department have been consulted regarding the Health Deprivation domain, and have provided constructive feedback on the make-up of the measurements identified.

The Education Department holds the majority of the information required for the Education, Skills and Training Deprivation domain, and officers have provided feedback on the measurements listed.

Some of the information needed for the Barriers to Housing domain has previously been calculated by the Policy Council, while the rest of the information should be available from the Housing Department which conducts a Housing Needs Survey every five years. Information from this survey is also pertinent for the first sub-domain within the Living Environment Deprivation domain.

Guernsey Police and the Home Department hold the information necessary to calculate the Crime and Living Environment Deprivation domains; and further information for this last domain relating to air quality is available from Environmental Health and Pollution Regulation.

Weightings

The measurements within each of the domains will be weighted to allow for the results to be combined, providing each domain with a single ‘domain score’. Each of these domain scores will then be weighted, as follows, to allow for them to be combined creating one overall score for deprivation.

The table below provides the domain weights used in the UK. Given the amount of analysis that has been placed on the calculation of these weights (which it would not be possible to achieve with the data and resources available in Guernsey), it is proposed that these be used as a basis for the weightings to be used in Guernsey. However, accepting that the indicators proposed are not, in all cases, directly comparable with the UK, the intention is to review these weightings during the development process.

Domain Weights (for the IMD 2015)	Domain Weight
Income Deprivation Domain	22.5%
Employment Deprivation Domain	22.5%
Health Deprivation Domain	13.5%
Education, Skills and Training Deprivation Domain	13.5%
Barriers to Housing and Services Domain	9.3%
Crime Domain	9.3%
Living Environment Deprivation Domain	9.3%

Appendix 3

Technical Indicators of Income Inequality

Gini Coefficient

The Gini Coefficient²⁸ is the most widely used international measure of income inequality, illustrating the degree of income inequality between different groups of households within a given population, as well as how this income inequality has changed over time. For instance, the bottom 10% of the population may have a 5% share of the wealth, whereas 5 years later the bottom 10% may have a 7% share of the wealth.

The Gini Coefficient is calculated by ranking the income of all households in ascending order and then using a Lorenz curve to plot the cumulative share of household income. The shape of the curve shows the equality of household income, with complete equality being shown by a straight line and complete inequality being a curve which comprises of the horizontal and vertical axis of the graph. Complete equality would equate to a Gini Coefficient of 0 (i.e. the wealth is equally distributed among the population) and complete inequality a Gini Coefficient of 1 (i.e. one individual has all the wealth, while the rest of the population has no income): this number can then be used to make international comparisons with other jurisdictions with regard to the degree of income inequality within a given population.

As an example, Figure 1²⁹ illustrates a line of perfect equality (line a) which would show that all wealth was equally distributed amongst the population. It also shows a Lorenz Curve (line b), which illustrates the actual distribution of wealth. The closer the Lorenz Curve appears to the horizontal and vertical axes, the more unequal the distribution of wealth. Equally, the closer the Lorenz Curve appears to the line of perfect equality, the more equal the distribution of wealth.

²⁸ Office for National Statistics, 2015, *The Gini Coefficient*, [online], available at: <<http://www.ons.gov.uk/ons/guide-method/method-quality/specific/social-and-welfare-methodology/the-gini-coefficient/index.html>>, [accessed 30 July 2015].

²⁹ The Scottish Government, 2007, *Income Distribution in Scotland*, [online], available at: <<http://www.gov.scot/Publications/2007/07/18083820/4>>, [accessed 3 September 2015].

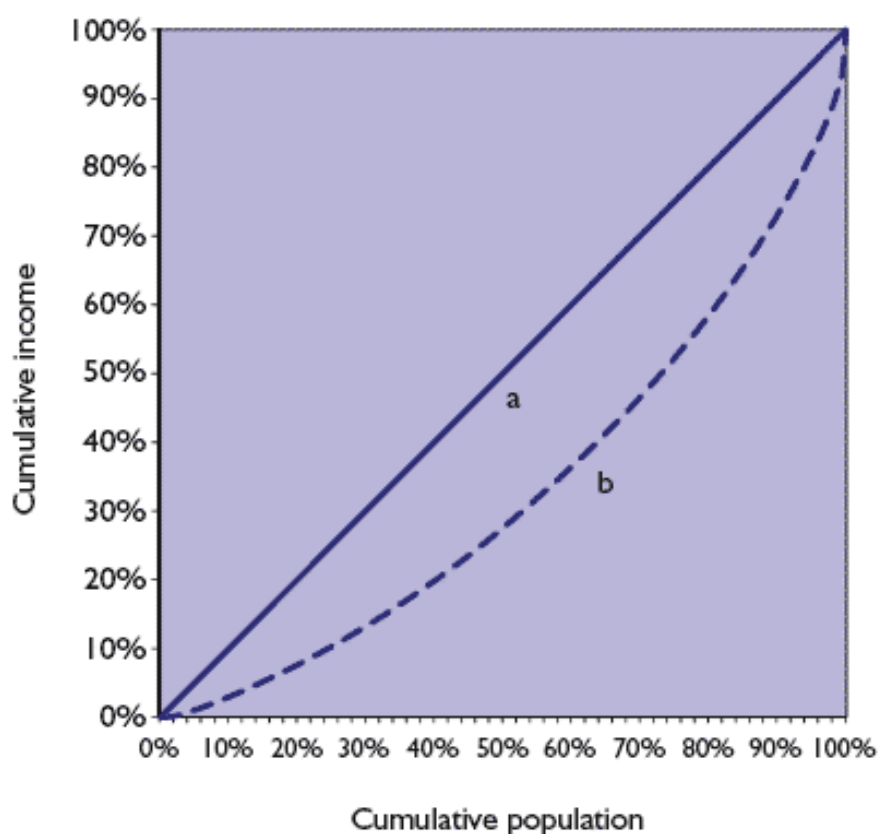


Figure 1 – Gini Coefficient Example Graph

S90/S10 Ratio

The S90/S10 Ratio³⁰, also known as the Income Decile Share Ratio, is another measure of the inequality of income distribution which corresponds to the gap between the average incomes of the richest 10% of the population and the poorest 10% of the population, based on equivalised disposable income. It is calculated by dividing the share of all income received by the top decile by the share of income received by the bottom decile. This measure indicates the extent to which income is shared equally across all households. For example, a ratio of 10 means that the income of the richest 10% of the population is, on average, 10 times higher than the income of the poorest 10% of the population.

³⁰ Organisation for Economic Co-operation and Development (OECD), 2014, “Income Inequality”, in *Society at a Glance 2014: OECD Social Indicators*, Paris: OECD Publishing.

(N.B. Treasury and Resources Members noted what appears to be an inconsistency in respect of the proposal to measure “relative poverty” described in this report and the work of the Social Welfare Benefits Investigation Committee which has used the 2011 report of “A Minimum Income Study for Guernsey” as a template for the basis of its calculations to identify those in need in Guernsey.

The Treasury and Resources Department notes that the Policy Council expects to manage all resource requirements relating to the amendment of the method of calculating the Relative Low Income Threshold and introduction of a Multidimensional Poverty Indicator within its existing resources.

It is also noted that the Policy Council is recommending that periodic Minimum Income Standard studies are undertaken if the necessary resources are identified and funding can be made available. The Treasury and Resources Department welcomes the agreement ‘in principle’ with the Guernsey Community Foundation to share the costs, however, the Department is of the view that States’ funding can only be made available through a strategic prioritised reallocation of existing resources by reducing some current services which are considered to be of lower priority).

The States are asked to decide:-

IX.- Whether, after consideration of the Policy Letter dated 9th November, 2015, of the Policy Council, they are of the opinion:-

1. To note that, to improve the measurement of relative poverty, the method of calculating the Relative Low Income Threshold will be updated and improved as set out in Section 7 of that report.
2. To agree that, to improve and broaden the measurement of relative poverty, a Multidimensional Poverty Indicator, as described in Section 9 and Appendix 2 of that report, be published annually.
3. To note that, subject to the necessary resources and funding being available, the Policy and Resources Committee will consider undertaking a Minimum Income Standard Study, as described in paragraph 5.3, Section 10 and Appendix 2 of that report, on a five yearly basis.
4. To agree that the measures of income inequality described in Section 11 and Appendix 3 of that report be published annually.

POLICY COUNCIL

REVIEW OF STATES MEMBERS AND NON-STATES MEMBERS PAY

Executive Summary

1. The findings and recommendations of the Independent Review Panel created to review the remuneration of States Members and Non-States Members, are presented to the States of Deliberation in this Policy Letter.

Background

2. On 27th January 2012 (Billet d'État III, Article 8), the States resolved:

“To direct the Policy Council to set up an independent review of Remuneration and Expenses allowance to be paid to States members and non-States members of Departments and Committees which shall report back in advance of the 2016 General Election”.

3. In July 2015, the Policy Council accordingly established an Independent Review Panel to review the remuneration of States Members and Non-States Members and appointed the following members of the Panel:

Mr Alex Rodger (Chairman)
Mrs Michelle Johansen
Mr Richard Digard

Given the Terms of Reference (see 1.(b) in paragraph 4 below), the timing of the appointment of the Panel was necessarily determined by the timing of the second Policy Letter of the States Review Committee on the Organisation of States' affairs which was considered by the States in July 2015.

4. The terms of reference of the Panel were as follows:

1. *Determine, following consultation with the Treasury and Resources Department, the States Review Committee and such other individuals or organisation as is considered appropriate, whether or not the main principles under which remuneration payments are now made appear to be justified including whether the current system fairly and properly reflects the nature of the roles of all Deputies, Alderney Representatives, Non-States Members and those elected to positions of special responsibility taking into account:*

- a) *the self-employed status of States Members for social security purposes; and*

- b) *any reform of the structure and operation of the States that may approved by the States after consideration of recommendations of the States Review Committee in July 2015 for such reform.*
- 2. *Determine whether there are any deficiencies and, if so, how these should be addressed.*
- 3. *Present a report to the Policy Council not later than 1st November 2015.*
- 5. The Panel submitted its Report on 2nd November 2015 (the closest working day to 1st November 2015). As it is reproduced in full in Appendix 1 its contents are summarised in this Policy Letter.
- 6. The Policy Council would like to take this opportunity publicly to thank the Chairman and Members of the Panel for their hard work in undertaking this review within a short timescale, and acknowledges the fact that it had to carry out that review in the context of the new system of government that will come into effect in May 2016.

The Report of the Independent Review Panel

- 7. After due consideration of the results of its consultations with States Members, Non-States Members, private sector organisations and the public, and taking account of the fact that it is not clear how the new system of government will actually work in practice, the Panel concluded that:

- (a) Median earnings should remain the benchmark for remuneration¹;
- (b) Some existing provisions for responsibility should remain in place and applied as follows:

Chief Minister	President, Policy and Resources Committee.
Ministers	Presidents, Principal Committees, Scrutiny Management Committee, States' Assembly and

¹ The data used to calculate median earnings covers all employed people in the Bailiwick (excluding Sark), who earn over the lower earnings limit for social security contributions. It is a measure of earnings from primary employment, unadjusted for the number of hours worked, i.e. the level can be impacted both by variations in the number of hours worked and rates of pay. The measure does not include earnings which employees may also receive from self-employment, secondary employment or income from other non-earned sources (such as benefits, property or investments).

The median is the middle value when all the earnings data is sorted in numerical order; its use as the headline measure minimises the impact of a small number of individuals with very high or very low earnings skewing the results.

Constitution Committee and ordinary members of the Policy and Resources Committee.

All other Deputies

All other Deputies.

- (c) There should be no specific responsibility adjustments for Vice-Presidents².
- (d) There should be no additional remuneration paid to States Members who are appointed to temporary committees and non-government bodies.
- (e) There should be no changes in relation to the status of States Members as self-employed for the purposes of social security, unless there are changes in Social Security rates in the future.
- (f) There should be no pension scheme for States Members.
- (g) Alderney Representatives should continue to receive basic remuneration and if they are appointed to a Committee, Authority or the States' Trading Supervisory Board, they should receive the same additional remuneration for the responsibility of the relevant appointment that would be applied if the same position had been occupied by a Deputy.
- (h) Non-States Members should be remunerated at £2,000 per annum (subject to an annual review and adjustment according to percentage changes in median earnings).
- (i) The payment of expenses as a tax-free allowance should end and an allowance for expenses should be included in remuneration. It should initially be set at £2,670 per Deputy and £1,335 for Alderney Representatives.
- (j) At the beginning of a political term, any States Member or Non-States Member who chose to accept the remuneration should only have one opportunity to either accept or reject any changes in such remuneration that might result from any changes in median earnings.
- (k) Remuneration should be automatically adjusted annually, based on any percentage change in median earnings, as published in March each year. In the event of a negative change, no adjustment should be made. Should a percentage increase occur in the year following a negative change, the award should reflect the percentage change from the year preceding the negative change.

² However, if a President was unable to fulfil his or her duties for a period in excess of four consecutive weeks and the Vice-President had to take on the full responsibilities of that office, he or she would be paid an additional allowance (equivalent to £1,087 per month) for the period during which those duties were undertaken.

- (l) Notwithstanding the statements in sub-paragraph (k), there should be a further review of the remuneration of States Members and Non-States Members once the new system of government has been in operation for a reasonable amount of time.

8. With the adoption of the Panel's recommendations, the number of remuneration "bands" is reduced to four, together with other measures that are intended to simplify the administration of remuneration payments to States Members and Non-States Members. The current and proposed remuneration arrangements are summarised below:

Current remuneration

Chief Minister	£62,523
Deputy Chief Minister	£49,627
Ministers	£47,394
Chairmen of standing Committees	£40,137
Deputy Ministers and Vice-Chairmen of standing Committees	£36,910
All other Guernsey Members	£34,355
Alderney Representative (Chief Minister)	£41,439
Alderney Representative (Deputy Chief Minister)	£28,543
Alderney Representative (Minister)	£26,310
Alderney Representative (Chairman)	£19,947
Alderney Representative (Deputy Minister or Vice Chairman)	£17,155
Alderney Representative (with a Department or Committee seat)	£14,922
Alderney Representative (no seat on a Department or Committee)	£10,735

Expenses:

Chief Minister	£3,205
Alderney Representatives	£1,068
All other Members	£2,137

Proposed remuneration

President of the Policy and Resources Committee	£65,315
Presidents of the Principal Committees, President of the Scrutiny Management Committee, President of the States' Assembly and Constitution Committee and Members of the Policy and Resources Committee	£50,185
All other Deputies	£37,147
Alderney Representative (President of the Policy and Resources Committee)	£42,835

Alderney Representative (President of a Principal Committee, President of the Scrutiny Management Committee, President of the States' Assembly and Constitution Committee or Member of the Policy and Resources Committee) £27,705

Alderney Representative (with a seat on a Committee, the Transport Licensing Authority, the Development and Planning Authority or the States Trading Supervisory Board) £20,503

All other Alderney Representatives £12,130

9. The Panel was also asked to clarify who could claim the Non-States Members allowance and recommends that it should only be paid to the relevant members of the six Principal Committees, the Scrutiny Management Committee, the Transport Licensing Authority, the Development and Planning Authority and the States Trading Supervisory Board.

The Policy Council's consideration of the Independent Review Panel Report

10. The Policy Council has taken the same position as that established by the Advisory and Finance Committee when it commented on the 2003 independent report on States Members pay; namely: that it is neither in a position to, nor would it be appropriate for it to, develop or present alternative proposals. In arriving at this position the Policy Council has been mindful of the fact that individual States Members will have their own views on what they consider to be an appropriate system and level of remuneration. The Policy Council believes that it is for each States Member to vote on the proposals according to his/her conscience.
11. The Policy Council has therefore included in this report specific recommendations which will enable the States to vote on the Panel's proposals.

Resource Implications

12. In respect of States Members and Alderney Representatives, the Panel has estimated that the cost of its proposals (assuming that an increase of 2% is applied in respect of median earnings in 2016) would be £1.65 million. Based on 2015 rates uplifted by 2%, the maximum cost of the current remuneration arrangements is £1.93 million and the proposals therefore represent a potential saving of approximately £280,000.
13. In respect of Non-States Members, the maximum potential cost of the Panel's proposals is £40,000 per annum, which is some £25,000 more than that currently paid as attendance allowances to Non-States Members.

14. It is anticipated that the resources required to administer the remuneration of States Members and Non-States Members will be lower under the Panel's proposals than currently.

Good Governance

15. This States Report complies with all the Core Principles of Good Governance as outlined in Billet d'État IV 2011.

Recommendations

16. The States are asked to vote on the following recommendations based on the proposals contained in the Independent Review Panel Report into States Members Pay:

- (1) That the remuneration allowance paid to Deputies with effect from 1st May 2016 shall be as follows:

President of the Policy and Resources Committee	£65,315*
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Presidents of the Principal Committees, President of the Scrutiny Management Committee, President of the States' Assembly and Constitution Committee and Members of the Policy and Resources Committee	£50,185*
--	----------

All other Deputies	£37,147*
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* Social Security uplift to be deducted for those aged 65 and over

with an adjustment in accordance with changes in Guernsey median earnings as published in March 2016 provided that, in the event of a negative change, no adjustment should be made.

- (2) The remuneration allowance paid to Alderney Representatives from 1st May 2016 shall be:

President of the Policy and Resources Committee	£42,835*
---	----------

President of a Principal Committee, President of the Scrutiny Management Committee, President of the States' Assembly and Constitution Committee or Member of the Policy and Resources Committee	£27,705*
--	----------

With a seat on a Committee, the Transport Licensing Authority, the Development and Planning Authority or the States Trading Supervisory Board	£20,503*
---	----------

All other Alderney Representatives

£12,130*

* Social Security uplift to be deducted for those aged 65 and over

with an adjustment in accordance with changes in Guernsey median earnings as published in March 2016, provided that, in the event of a negative change, no adjustment should be made.

- (3) In the event that a President of a Principal Committee, the Scrutiny Management Committee or the States' Assembly and Constitution Committee is unable to fulfil his or her duties for a period in excess of four weeks and the Vice-President takes on the full responsibilities of that post, his or her remuneration will temporarily increase to the level of a President.
- (4) The remuneration allowance paid to Non-States Members from 1st May 2016 should be £2,000 per annum and should only be paid to the relevant members of the six Principal Committees, the Scrutiny Management Committee, the Transport Licensing Authority, the Development and Planning Authority and the States Trading Supervisory Board.
- (5) That any Alternative Alderney Representative shall be entitled to be awarded in respect of his attendance at a properly convened meeting of the States of Deliberation which he has been appointed to attend, pursuant to section 4 of the States of Guernsey (Representation of Alderney) Law, 1978 an attendance allowance of £69 per half-day or part thereof (with an adjustment in accordance with changes in Guernsey median earnings as published in March 2016 provided that, in the event of a negative change, no adjustment should be made), which sum shall be subject to tax.
- (6) The remuneration of States Members, Non-States Members and attendance allowance for Alternative Alderney Representatives should be automatically adjusted annually on 1st May, based on any percentage change in median earnings, as published in March each year. In the event of a negative change, no adjustment should be made. Should a percentage increase occur in the year following a negative change, the award should reflect the percentage change from the year preceding the negative change.
- (7) To direct the Treasury and Resources Department (and its successor Committee) to continue to provide States Members with standard information technology equipment and software.
- (8) At the beginning of a political term, any States Member or Non-States Member who chose to accept remuneration would be required to decide either to accept or reject any changes in such remuneration that might

result from any changes in median earnings during the relevant political term.

- (9) To direct the Policy and Resources Committee to present to the States of Deliberation for approval the necessary amendments to the Rules for Payments to States Members, Former States Members and Non-States Members of States Departments and Committees to give effect to their above decisions.
- (10) To direct the Policy and Resources Committee to set up an independent review of the remuneration to be paid to States Members and Non-States Members not later than 1st May 2018; or at any other time in the event of a change in circumstances that has a significant effect on the roles and responsibilities of those Members.

J P Le Tocq
Chief Minister

9th November 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

INDEPENDENT REVIEW PANEL

REMUNERATION OF STATES MEMBERS AND NON-STATES MEMBERS

REPORT TO THE POLICY COUNCIL 2nd NOVEMBER 2015

1 EXECUTIVE SUMMARY

- 1.1 The Panel has been tasked with determining whether or not the main principles under which States Members and Non-States Members are currently remunerated appear to be justified, taking into account the self-employed status of States Members and the reforms to the structure of government proposed by the States Review Committee.
- 1.2 Whilst the Panel has concluded that those principles remain appropriate, it has had to look forward to the new system of government and whilst the new structure and the positions on the various government bodies that States Members and Non-States Members will occupy are clear, exactly how that new system will operate in practice is not and the Panel received only limited feedback from consultation on this issue.
- 1.3 The Panel therefore had limited information with which to carry out an objective assessment of the actual effect that the new system of government might have on, for example, the time commitment of States Members or the responsibilities of States Members and Non-States Members in specific committee roles.
- 1.4 As a result, the Panel concluded that it did not have enough detailed information to enable it carry out a fundamental “grass roots” review of the remuneration that should apply from May 2016 and, rather than speculate, it recommends that, in general, the current arrangements should remain in place, subject to some minor amendments to improve administrative efficiency.
- 1.5 In making this recommendation, the Panel gave considerable weight to the significant number of responses to consultation to the effect that the current arrangements are viewed as “about right”.
- 1.6 The Panel therefore considers that the current remuneration of States Members should be adjusted in 2016 in accordance with any percentage change in median earnings when the latest information is published in March 2016 and recommends that there should be a further review of remuneration once the new system of government has been implemented and it has had sufficient time to “bed in”.

2 INTRODUCTION AND TERMS OF REFERENCE

2.1 In January 2012, the States resolved as follows:

“To direct the Policy Council to set up an independent review of Remuneration and Expenses allowance to be paid to States members and non-States members of Departments and Committees which shall report back in advance of the 2016 General Election”.

2.2 The Policy Council established the Independent Review Panel in July 2015 and appointed the following members:

Mr Alex Rodger
Mrs Michelle Johansen
Mr Richard Digard

The Panel elected Mr Rodger as Chairman.

2.3 The terms of reference of the Panel were as follows:

1. *Determine, following consultation with the Treasury and Resources Department, the States Review Committee and such other individuals or organisation as is considered appropriate, whether or not the main principles under which remuneration payments are now made appear to be justified including whether the current system fairly and properly reflects the nature of the roles of all Deputies, Alderney Representatives, Non-States Members and those elected to positions of special responsibility taking into account:*

- a) *the self-employed status of States Members for social security purposes; and*
- b) *any reform of the structure and operation of the States that may approved by the States after consideration of recommendations of the States Review Committee in July 2015 for such reform.*

2. *Determine whether there are any deficiencies and, if so, how these should be addressed.*

3. *Present a report to the Policy Council not later than 1st November 2015.*

2.4 Given that the terms of reference required the Panel to take account of any reforms of the structure and operation of the States, it could not undertake any substantive work until after the recommendations of the States Review Committee had been debated at the end of July 2015.

3 METHOD

- 3.1 The Panel considered that it was essential to hear the views of States Members on the issue of remuneration and that direct engagement would be helpful. However, given the timescale within which it was required to submit a report to the Policy Council, it did not believe that it had sufficient time to offer face to face meetings with individual Members. The Panel therefore decided to hold workshops on remuneration as a means of achieving direct engagement with as many States Members as possible.
- 3.2 The Panel also resolved to seek written submissions from any States Members who could not attend a workshop, Non-States Members, private sector organisations and the public.
- 3.3 Much of the feedback received by the Panel as the result of consultation concentrated on past and current arrangements and there was only limited consideration of the likely impacts of the changes to the structure of government that will come into effect in 2016.
- 3.4 In accordance with the terms of reference, the Panel:
- sought initial input from the Treasury and Resources Department in July 2015 and had other discussions with the Department as its work progressed, and
 - consulted the States Review Committee.
- 3.5 Furthermore, the Panel noted that the comments of the Treasury and Resources Department on the report of the States Review Committee included the following statement:
- “The Treasury and Resources Department hopes that the reduction in the number of People’s Deputies proposed in the report will lead to sustainable savings, estimated to be between £250,000 and £300,000 per annum, in the overall cost of this formula-led expenditure in future years.”*
- 3.6 The report of the States Review Committee included the following reference:
- “10.9.2 The Committee intends to work with the States’ Assembly & Constitution Committee to publish – and submit to the independent panel on remuneration – guidance on members’ various roles and responsibilities in the new committee structure. It is recognised by both Committees, and indeed by the Registrar General of Electors, that every effort will need to be made to ensure that electors and prospective candidates are well informed about the restructuring of the States.”*

and the Panel was grateful to receive that guidance in September 2015 (it is discussed further in section 6 and reproduced in Appendix 1).

- 3.7 A number of issues relating to the status of States Members for social security purposes were raised as the result of consultation. These were discussed with the Social Security Department (the subject of social security is discussed further in section 7).

4 PRINCIPLES

- 4.1 The Panel noted that in the last review of remuneration in 2011, the Independent Review Board had based its conclusions on the following principles:

- A) Remuneration should permit widespread participation by individuals of diverse age and experience, regardless of gender.
- B) Remuneration should not lead to participation for financial reasons alone.
- C) Remuneration should reflect an element of service to the community.
- D) Remuneration should reflect an individual's commitment of time as an important, but not determinant factor.
- E) Remuneration should be transparent.
- F) Remuneration should be administratively simple.

- 4.2 The consultation responses received by the Panel did not challenge these principles and it concluded that they remained relevant and agreed to use them to guide its review. In particular, the Panel concluded that there were a number of opportunities to simplify the current administrative arrangements.

5 THE NEW STRUCTURE OF GOVERNMENT

- 5.1 The terms of reference require the Panel to take into account any reforms of the structure and operation of government. Accordingly, it noted that, in brief, the States agreed that there should be:

- a Policy and Resources Committee;
- six Principal Committees;
- a Scrutiny Management Committee;
- a States Assembly and Constitution Committee;
- a Transport Licensing Authority;
- a Development and Planning Authority; and
- a States Trading Supervisory Board,

and that the number of Deputies would be reduced to 38.

6 ROLES, RESPONSIBILITIES AND TIME COMMITMENT

The Role and Responsibilities of States Members

- 6.1 As indicated above, the Panel was grateful to receive guidance from the States Review Committee on the role and responsibilities of States Members. It noted that, in broad terms, the role consisted of three main parts (Member of the States of Deliberation, member of States Committees and constituency representative).
- 6.2 The Panel also noted the statements in the last review of remuneration to the effect that it was difficult to make an objective assessment of remuneration in the absence of a detailed “job description” for a States Member (or for any of the “senior” positions, such as Minister).
- 6.3 The Panel received some representations that a full job description should be drawn up, but it had insufficient time to explore this in more detail and it makes some observations on this issue in section 9.
- 6.4 In the absence of such detail, the assessment of remuneration by the Panel has taken account of the role in general, using such information as is available in the Second Policy Letter of the States Review Committee which was considered by the States in July 2015 and such other information that the Committee has provided to the Panel.

The Role and Responsibilities of Non-States States Members

- 6.5 Responses to consultation suggest that individuals are recommended to fill Non-States Members’ positions on principal States bodies because they have experience, knowledge, training or qualifications that will be useful to the relevant body and that as such they support the political members of such a body. The motivation to put oneself forward for these positions seems to be primarily a desire to give something to the community and, as a result, it is fundamentally voluntary.
- 6.6 The Panel therefore considers that the role of a Non-States Member is primarily advisory. It has additional views on the use of Non-States Member and these are discussed in section 11.

Time Commitment

- 6.7 The Panel received a number of representations to the effect that the workload of States Members had increased substantially over the years. However, other representations indicated that the time commitment was quite variable and, to some extent, dictated by the manner in which an individual approached the role or the relative emphasis that they gave to the different elements of the role.

- 6.8 In addition, the Panel accepted a number of strong representations that indicated that it is not realistically possible for States Members to undertake other paid work. The demands on States Members' time are so irregular that, in the absence of a very understanding employer or very understanding customers, it is all but impossible to commit regular hours to another job, either on an employed or self-employed basis.
- 6.9 The Panel considered that the general, practical impact on States Members was that they effectively had to commit to the role on a full-time basis. However, taking account of Principle C (remuneration should reflect an element of service to the community), the Panel concludes that an element of that time commitment should reflect such service and therefore that the role of States Member is not full-time for the purposes of remuneration.
- 6.10 Notwithstanding its conclusion in paragraph 6.9, the Panel has agreed that there should be one exception. The previous review of remuneration concluded that the role of Chief Minister was full-time and the Panel received no representations to the effect that this situation had changed. It therefore considers it is reasonable to assume that the role of the President of the Policy and Resources Committee will be similarly time-consuming and that this role should also be regarded as full-time.
- 6.11 The Panel received a number of representations to the effect that remuneration should either be based entirely on work undertaken or based on a combination of a fixed payment plus an element based on actual workload.
- 6.12 Whilst certain aspects of the work of a States Member would be easy to record (such as attendance at States or committee meetings), other aspects (such as research, background reading and constituency work) would have to be recorded by States Members themselves.
- 6.13 The Panel has rejected these "workload" options because:
- they would leave States Members in the unsatisfactory position of having to submit, what would amount to unverifiable claims for remuneration;
 - they are contrary to Principle D (remuneration should reflect an individual's commitment of time as an important, but not determinant factor), Principle E (remuneration should be transparent) and Principle F (remuneration should be administratively simple); and
 - there is a risk that States Members would seek positions on States bodies for reasons of remuneration, which would also be contrary to Principle A (remuneration should not lead to participation for financial reasons alone).

7 REMUNERATION

Benchmark

- 7.1 Remuneration is currently benchmarked against median earnings and the majority of representations that the Panel received on this issue suggested that the current arrangements are “about right”.
- 7.2 The Panel did, however, receive some representations for alternative benchmarks, namely either a basket of public or private sector rates.
- 7.3 In the case of the first alternative, it is the view of the Panel that as there is political involvement in negotiations on public sector pay, there would inevitably be criticism that the political representatives would have a direct interest in the outcome of such negotiations. The Panel considered that such an arrangement would be unsatisfactory.
- 7.4 With regard to the second alternative, the Panel felt that it would be difficult to establish a benchmark that everybody considered to be reasonable and appropriate. Doubts and concerns could undermine the credibility of the benchmark and the Panel therefore rejected this option.
- 7.5 Other alternative methods of remuneration were also proposed by a minority of respondents to the consultation. These ranged from paying little or no remuneration at all (on the basis that the role was primarily a voluntary one) to a substantial increase in remuneration (to encourage greater participation by business professionals).
- 7.6 The Panel acknowledges that an element the role of States Member involves service to the community. However, if remuneration was stopped or set at a very low level, the candidature at an election would very likely be limited to individuals who had independent financial means. That would be contrary to principle A (remuneration should permit widespread participation) and the Panel rejected this option.
- 7.7 Likewise, setting the level of remuneration in such a way as to specifically try to attract particular members of the community would also, in the view of the Panel, not only be contrary to principle A, but would also compromise principle B (remuneration should not lead to participation for financial reasons alone). It also rejected this option.
- 7.8 On the basis of principle A, the Panel concluded that States Members should be elected to represent the entire community and, as such, the current benchmark of median earnings establishes a direct relationship (in terms of remuneration) between States Members and an average member of the community. The Panel therefore considers that the current benchmark remains appropriate. It also resonates with the primary code of conduct responsibility of States Members to

act in the public interest whilst in office (and to develop policies to support economic growth).

- 7.9 It could also be argued that there is a further, somewhat indirect, relationship in that if States Members fulfil that code of conduct responsibility, the economy should prosper and the community (along with themselves) will benefit.

Responsibility

- 7.10 The consultation process indicated limited support for the principle that there should be a single payment for all States Members. However, as indicated above, the Panel believes that there is some variation in the time commitment of States Members and based on the information in the second Policy Letter of the States Review Committee and advice that was received from that Committee, the Panel also believes that certain roles will carry additional responsibilities and that remuneration should reflect that.
- 7.11 In the second Policy Letter, the States Review Committee makes reference to a “core structure” of government by which was meant the Policy and Resources Committee and the Principal Committees.
- 7.12 It also identified a number of functions already undertaken by separate States bodies and either proposed no (or virtually no) changes in respect of those bodies or different governance arrangements in relation to a number of statutory and trading functions. It also made the point that the relevant bodies should not be considered subordinate to Principal Committees.
- 7.13 In addition, the Panel received advice from the States Review Committee to the effect that the responsibilities of the chairs or presidents of at least some of the committees would “vary greatly and therefore different rates of remuneration for different roles may be appropriate”.
- 7.14 From this, the Panel concludes that on the one hand, all committees should be regarded as equal in terms of “status”, but that the responsibilities of the individuals who head those bodies could vary considerably and hence there may be a case for the remuneration that attaches to various roles to be different.

Presidents of Principal Committees

- 7.15 The Panel received a number of representations to the effect that the current uplift in remuneration for Ministers was justified, but no strong views that the specific quantum of that uplift should be reviewed.
- 7.16 The Panel acknowledges that the Presidents of the Principal Committees will not have to sit on the Policy and Resources Department in the same way as Ministers are also members of the Policy Council. In this respect the roles of Presidents as compared to Ministers will be different.

- 7.17 It also considers that in many respects the responsibilities of the two roles will be similar. A Minister currently has to take on all the responsibilities that go with heading a Department and the Panel considers that it is reasonable to assume that those responsibilities will, generally, be the same in respect of Presidents of the Principal Committees.
- 7.18 Whilst the new structure of government is clear, it is not possible to say with certainty how it will function in practice. The Panel could not, therefore, carry out an objective assessment of the responsibilities of a President of a Principal Committee in order to compare those responsibilities with those of a Minister or to determine whether there should be any adjustment in remuneration to reflect any differences in responsibility between the two positions.
- 7.19 Rather than speculate, the Panel considered that for the immediate future, the remuneration of Presidents of Principal Committees should be linked to that of Ministers and that a further review of remuneration should be carried out once the new system of government has had a chance to be “bed-in”. This is recommended in section 10.

Members of the Policy and Resources Committee

- 7.20 The Panel also received a number of representations that the remuneration of the Members of the Policy and Resources Committee (other than the President) should receive the same remuneration as Presidents of the Principal Committees.
- 7.21 The Panel noted that the second Policy Letter of the States Review Committee included the following statement about the responsibilities of the Policy and Resources Committee:

“...the Policy & Resources Committee will be responsible for co-ordinating the work of the States by leading the policy planning process, facilitating cross-committee policy development and advising the States on the proposals of Principal Committees; and for fiscal and economic affairs, the States’ budget, corporate resources and external and constitutional affairs.”

- 7.22 The Panel considers that it is clearly intended that the Committee will have a significant central, coordinating role and therefore that the responsibilities of its members in ensuring the effective performance of that role will also be significant. On that basis, it recommends that the “ordinary” members of the Committee should be remunerated at the same rate as the Presidents of the Principal Committees.

President of the Policy and Resources Committee

- 7.23 The Panel believes that it is generally accepted that the remuneration applied in respect of the responsibilities of the Chief Minister in the previous review of

remuneration was acceptable, appropriate and a suitable reflection of the status of this senior position.

- 7.24 It received no strong views that the current arrangement should be changed and it believes that it is reasonable to assume that the role of the President of the Policy and Resources Committee will be, in broad terms, similar to that of the Chief Minister and indeed may be further enhanced, given the coordinating responsibilities of that Committee.
- 7.25 The Panel recommends that the remuneration of the President of the Policy and Resources Committee should be the same as the remuneration of the Chief Minister.

President of the Scrutiny Management Committee

- 7.26 A strong representation was made to the Panel, that, following the introduction of the government reforms in 2016, the Chairman of the Scrutiny Management Committee should be remunerated at the same rate as the Presidents of the Principal Committees.
- 7.27 The Panel considers that those reforms considerably strengthen the future role of the Scrutiny Management Committee and enhance the scrutiny function in relation to States affairs and recommends that the President of this Committee is remunerated at the same rate as the Presidents of the Principal Committees.

Chairman and Presidents of other Government Bodies

- 7.28 In considering the responsibilities of the Chairmen and Presidents of other government bodies, the Panel noted the advice from the States Review Committee that, in some cases, the responsibilities of at least some of the committees would “vary greatly”.
- 7.29 The Panel also received a representation suggesting that the Panel might wish to consider whether the workload and responsibilities of the States’ Trading Supervisory Board would be such as to warrant enhanced remuneration being paid to the President of that Board.
- 7.30 In order to assess the extent of such a variation suggested by the States Review Committee, the Panel took account of the mandates that have been proposed for all of States bodies. It noted that the, in general terms:
- Civil Contingencies Authority would carry out functions specified in legislation.
 - Development and Planning Authority determine planning applications but would also have some policy responsibilities in relation to land use.

- Overseas Aid and Development Commission would collect and distribute aid funds in accordance with policies set by the Policy and Resources Committee,
- States' Assembly and Constitution Committee would develop policies on a range of matters generally in relation to the constitutions of the States of Deliberation and the States of Election, procedures and practices of the States of Deliberation and in relation to elections and the conduct of States' members.
- States Trading Supervisory Board would carry out the States' shareholder role in respect of various companies and ensure the efficient management and operation of various trading concerns within a framework of policies, guidance and instructions if the States and any relevant committees.
- Transport Licensing Authority would determine various licence applications.
- Elizabeth College Board of Directors would carry out duties and exercise powers in relevant legislation and superintend and manage the affairs of the College.
- Guille-Allès Library Council would administer the library.
- Ladies' College Board of Governors would conduct the College in accordance with relevant legislation.
- Priaulx Library Council would administer the Library.

- 7.31 The Panel concluded that it might be reasonable to say that a very general distinction between the various government bodies was that some had significant policy responsibilities and others did not. Thus, for example, the six Principal Committees had duties and power in relation to the development and implementation of policies on a wide range of matters, but many of the bodies listed above mainly had duties and powers that were more supervisory or administrative in nature.
- 7.32 The Panel did not believe that it could make any further distinctions based on the information available to it. Indeed, an objective assessment of the variations in responsibilities will not be possible until the new system of government is in place and operating.
- 7.33 In the particular case of the States Trading Supervisory Board, the Panel noted that it would exercise its duties and powers within a framework of policies, guidance and instructions of the States and any relevant committees.

- 7.34 The Panel therefore recommends that the President of the States Assembly and Constitution Committee should be remunerated at the same rate as the Presidents of the Principal Committees and that the chairmen and presidents of the other bodies listed above should not. However, as above, it further recommends that this situation is reviewed after the new system of government has been in operation for a period of time.

Vice-Presidents

- 7.35 The Panel noted that in the previous review of remuneration an uplift was applied in respect of the responsibilities of Deputy Ministers and Vice-Chairmen.
- 7.36 The Panel is not persuaded this is fully justified. In many organisations, holiday cover and cover for short-term periods of illness or period spent away from the organization for business reasons is provided as a matter of course by other members of that organisation without specific recognition being made to them for doing so.
- 7.37 An exception to this principle would be if a President was unable to fulfil the responsibilities of the office for a significant period of time (in excess of 4 consecutive weeks, for example due to illness or injury) and the Vice-President had to undertake those responsibilities in full. In this circumstance, consideration should be given to increasing the remuneration of a Vice-President to the Presidential rate for the period during which that person was, effectively, the President. The Panel considers that this would amount to an additional £1,087 per month from 1st May 2016 (adjusted thereafter in accordance with changes in median earnings discussed above).
- 7.38 Other than in the circumstance in paragraph 7.37, the Panel is not convinced that significant responsibility attaches to those roles and it recommends that there is no uplift in the remuneration in respect of Vice-Presidents in the new system of government.

Appointments to other Bodies

- 7.39 The previous review body concluded that the work undertaken on special committees should be regarded as no different to work carried out by a member of a Department or a permanent Committee and therefore that it should be considered as part of the overall commitment of any individual to the role of States Member.
- 7.40 The Panel shares this view and does not propose that any additional remuneration should be paid in respect of the membership, by a States Member, of any temporary committee or non-government body.

Social Security

- 7.41 The Panel received a number of representations to the effect that the social security status of States Members should be changed to “employed” (from the current status of self-employed) although no strong justification for such a change was provided.
- 7.42 It noted that, for social security purposes, an employed person is a person who works under a contract of service and tends to work under the control and direction of another person and considered that the nature of States Members’ “employment” did not meet this requirement.
- 7.43 It also noted that the previous review of the remuneration of States Members included an uplift of 4% (for individuals under the age of 65) to take account of the median earnings benchmark and the fact that such earnings were based on the earnings of employed persons. The 4% represented the difference between the contribution rates of employed and self-employed persons at that time.
- 7.44 As indicated above, no strong case was made to the Panel to justify a change in the social security status of States Members and, given the timescale within which it had to deliver its report, it was not possible to explore this issue in any great depth, although it was possible to establish that a change to employed status could increase costs to the States of Guernsey by the order of £100,000 a year.
- 7.45 The Panel therefore proposes that the existing arrangements remain in place and that the differential that was applied as the result of the last review of remuneration should continue to be applied. The uplift is currently 4.5% and, should there be any changes in social security rates in the future, the rules for payments to States Members etc. should be changed as necessary to reflect those changes.
- 7.46 Notwithstanding that proposal, the Panel believes that a thorough review of the social security status of States Members might be included as part of any wider debate on the role of States Members should that occur in the future. This is discussed further in section 10.

Pension

- 7.47 The Panel received quite a number of representations calling for a pension for States Members to be reinstated. The arguments put forward for such a change included:
- the lack of pension discourages candidates; and
 - future policy proposals are likely to encourage as many people as possible to make provision for a pension.

- 7.48 The Panel noted that in the last review, States Members remuneration was uplifted by 15% in order that they could make provision for their own pension. It considers that this arrangement should continue to apply and that the cap recommended by the previous review body should be discontinued.

Alderney Representatives

- 7.49 No representations were made in respect of the remuneration of the Alderney Representatives. The Panel therefore proposes that the current arrangements in respect of the basic remuneration should remain in place, benchmarked against median earnings. This basic remuneration is less than that of a Deputy to reflect the fact that Alderney Representatives have no constituency responsibilities in Guernsey.
- 7.50 There is also provision in the current arrangements for the remuneration of Alderney representatives for an uplift if such a person has a place on a Department or Committee and for a further uplift if they occupy a senior position on such a body although the uplift is less than that of a Deputy.
- 7.51 The panel considers that this arrangement should continue, save that it considers the reduced responsibility uplift to be inequitable given that an Alderney Representative who has a position on a government body would take on the same responsibilities as any Deputies on the same body.
- 7.52 The Panel considers that the remuneration to Alderney Representatives should be should be as follows:

Member of a Committee	£20,503
President (Principal Committee/Scrutiny/SACC) or Member of P&R Committee	£27,705
President, Policy and Resources Committee	£42,835
Not a Member of a Committee	£12,130

Non-States Members

- 7.53 It was put to the Panel that the remuneration of Non-States Members should be substantially increased to properly reflect their contribution to the work of the States. However, the Panel concluded that the current remuneration did not appear to lead to any shortage of individuals who were willing to take up Non-States Member positions on Departments and other bodies.
- 7.54 As indicated above, the Panel believes that an individual's primary motivation for standing as a Non-States Member is a desire to give something to the community and that the role is therefore fundamentally voluntary and the people who serve in this way are not just appointed consultants.

- 7.55 It sees no reason for this relationship to be changed in the future and it therefore proposes that the remuneration of Non-States Members should continue to represent some recompense for incurred expenses and nothing more.
- 7.56 The Panel also noted that the current method of making a claim and verifying and paying it is onerous and time-consuming for all parties. Taking account of principle F (remuneration should be administratively simple), the Panel proposes that instead of having to claim for attendance, Non-States Members should be remunerated at £2,000 per annum (subject to an annual review and adjustment according to percentage changes in median earnings).
- 7.57 The Panel is aware that the Non-States Members' "rate" is often used as a benchmark for payments to other individuals who undertake work for the States on a temporary basis. It sees no reason why this practice should not continue with payments based, pro-rata, on Non-States Members' remuneration and considers that this would be £69 per half day.
- 7.58 Furthermore, the Panel notes that the current rules regarding payments provide that any Alternate Alderney Representative is able to claim the same attendance allowance as a Non-States Member. The Panel considers that this arrangement should remain in place based on the principle in paragraph 7.57.
- 7.59 The Panel was also advised that it is not entirely clear who can claim the Non-States Members allowance, particularly in relation to the non-government bodies and it was asked to clarify this issue.
- 7.60 Given the Panel's views in paragraph 6.6, the Panel recommends that the allowance should be paid in circumstances in which Non-States Members support and advise a political Board and therefore that it should only be paid to the Non-States Members of the:
- six Principal Committees;
 - Scrutiny Management Committee;
 - Transport Licensing Authority;
 - Development and Planning Authority; and
 - States' Trading Supervisory Board,
- 7.61 The Panel also received representations asking it to consider whether the workload and responsibilities of the States' Trading Supervisory Board would warrant a higher allowance for the Non-States Members of that Board. However, as the Panel cannot determine the actual future workload of the Board or how it will carry out its duties and responsibilities in practice, it has no way of making an objective assessment of whether an increase is justified (and if so what that increase should be). Rather than speculate the Panel does not recommend any enhancement at this time.

Allowances and Administrative/Secretarial Support

- 7.62 The Panel notes that the current arrangement is that States Members receive a tax-free expenses allowance. It does not believe that States Members should be favoured in this way compared to other members of the community and it therefore recommends that current arrangement is discontinued and that the allowance is included in the remuneration of States Members.
- 7.63 As was the case in the previous review, the Panel received some representations that the expense allowance was not enough or that it should be increased to cover such things as office equipment, attending professional events, travel and accommodation expenses and secretarial, administrative and research assistance.
- 7.64 Addressing the latter points, the Panel considered that the provision of secretarial and other support would incur significant cost to the States and that in the current financial climate, such resources could not be found, funded or justified on the evidence available to it.
- 7.65 In the case of other expenses, the Panel agreed with the conclusions of previous reviews that they should be paid to compensate a States Member for expenses actually and reasonably incurred as the result of the discharge of his or her duties. It was not persuaded that the allowance should be increased to allow for such things as the hiring of assistance or the rental of office space.
- 7.66 In terms of the quantum, the Panel proposes that the expenses allowance for a Guernsey States Member should initially be set at £2,670 in order that the net amount received is the same as the current tax free allowance. Thereafter, it would form part of the remuneration and would be subject to any annual changes in median earnings. The allowance paid to Alderney Representatives should be benchmarked at 50% of that rate (to reflect the fact that they do not undertake constituency work in Guernsey).
- 7.67 By including the expenses allowance in remuneration the Panel acknowledges this will impact provision for social security and that States Members could claim income tax relief on such expenses incurred. However it notes that whilst the cost of the expenses allowance would increase, this would be compensated for across the States as a whole by higher income tax and social security contributions.

Method of Payment

- 7.68 The Panel noted that under the current rules, States Members can elect to accept a proportion of, or decline any changes to, their remuneration. The outcome of those choices is that there are effectively 47 individual remuneration “packages” resulting in what is probably the maximum amount of administrative complexity that is possible under those rules.

7.69 Taking account of principle F (remuneration should be administratively simple), the Panel proposes that at the beginning of a political term, States Members and Non-States Members would be required to choose one of two options, (if they chose to accept the remuneration in the first place):

- to accept any change in remuneration that resulted from an annual change in median earnings during the whole of the political term (there would be no subsequent opt-out or partial opt-out); or
- decline any such changes during the whole of the political term (there would be no subsequent opt-in),

and the Panel considers that such an arrangement would also comply with principle E (remuneration should be transparent). For the avoidance of doubt, there would be no option to accept a proportion of any change that resulted for any change in median earnings

7.70 The Panel further proposes that remuneration should be automatically adjusted annually, based on any percentage change in median earnings, as published in March each year. In the event of a negative change, no increase should be awarded. Should a percentage increase occur in the year following a negative change, the award should reflect the percentage change from the year preceding the negative change.

7.71 Any States Member would remain free to return all or part of their remuneration to the States or to (for example) donate it to charity.

Severance Payment

7.72 The point was made to the Panel in a number of representations that States Members had no guarantee of being re-elected and those who were unsuccessful could find themselves without employment almost overnight.

7.73 As a consequence, there was very little time to adjust and to make new provision for financial commitments, such as a mortgage. A limited period of payment post-election would cushion the immediate effects of such a significant change in circumstances and allow time for an individual to make alternative arrangements.

7.74 It was also suggested that such a provision would encourage people to stand for election.

7.75 The Panel is of the view, however, that the situation is no different to any individual who undertakes employment for a fixed period of time. They enter into that arrangement in the knowledge that it is time limited and they must make appropriate provision for the time when it comes to an end.

- 7.76 The Panel does not, therefore propose that provision is made for severance payments to States Members.

IT Equipment

- 7.77 The Panel considers that the current arrangements whereby States Members are provided with standard IT equipment by the States, should continue.

8 ASSESSMENT OF COST

- 8.1 The current levels of remuneration are set out in Appendix 2 and the Panel recommends that these rates should be adjusted in accordance with any changes in median earnings (subject to the statements regarding a negative change in paragraph 7.70) in respect of 2015 (which will be reported in March 2016) and applied from 1st May 2016.

- 8.2 Based on the rates in Appendix 2, applying it to the positions in the various government bodies that will be in place from May 2016, allowing for the inclusion of expenses allowances in basic remuneration and applying a notional 2% increase in median earnings, the Panel estimates that the cost of the remuneration of States Members would be in the order of £1.65 million.

- 8.3 This estimate is for illustrative purposes only and the actual amount will depend on the actual changes to median earnings (if any).

- 8.4 There will be an additional cost in respect of Non-States Members. The actual cost will depend on the number of individuals who are appointed.

- 8.5 The States Review Committee proposes that a Principal Committee, the Development and Planning Authority, the Scrutiny Management Committee, the States' Trading and Supervisory Board and the Transport Licensing Authority may nominate up to two Non-States Members. That would make a total of 20 Non-States Members if all of the positions were filled and the cost would be £40,000

- 8.6 Furthermore, in respect of the scrutiny function, the States has agreed that:

“the task of actually scrutinising the policies, expenditure and services of States’ committees and of legislation should in the main be carried out through scrutiny panels with the membership of such panels determined with reference to the task in hand.”

and that:

“when the Scrutiny Management Committee identifies the need to undertake a review or examination of policy or services, it shall appoint a ‘task and finish’ group comprising in the main States members especially suited to the scrutiny of that particular area of policy or service.....”

and in respect of the States Trading and Supervisory Board, that:

“the exact constitution and the members of the Board should be determined by the States on a recommendation submitted by the Policy & Resources Committee.

This may result in the creation of additional Non-States Members’ positions.

9 PARTICIPATION

- 9.1 The Panel notes the recent resolution of the States of Deliberation in relation to a Policy Letter from the States’ Assembly and Constitution Committee on the Distribution of Deputies’ Seats Amongst the Electoral Districts (Article 23 of Billet d’État XVI, Volume 2, 29th September 2015) as follows:

“To direct the States Assembly and Constitution Committee to report back to the States on increasing inclusivity and diversity amongst candidates standing for election. Such report to include the consideration of obstacles to standing as a candidate and possible means of overcoming them; including an investigation into establishing a reasonable adjustment fund to facilitate candidates’ potential election and the entry criteria for such a fund.”.

- 9.2 The Panel believes that this work will complement Principle A (remuneration should permit widespread participation by individuals of diverse age and experience, regardless of gender).
- 9.3 Whilst not a matter that is directly related to remuneration, the Panel wishes to advise the Policy Council that it received a number of representations to the effect that public opinion of States Members is very low and concern was expressed that this state of affairs should be addressed. The view was also expressed that this may be a significant factor that influences a decision by an individual on whether or not to stand for election as a Deputy and that the situation appears to be worsening.
- 9.4 The Panel considers that if there was a clear public statement describing the role and responsibilities of a States Member and the core competencies that a person would ideally need in order to undertake that role and responsibilities (not only as an “ordinary” member, but also in the senior positions), it would:
- materially assist a potential candidate when making a decision on whether or not to stand for election; and

- help the public to better understand what to expect from elected representatives which, in turn, might have an effect on public opinion.
- 9.5 Furthermore, as identified by the last review, a lack of detail about roles and responsibilities makes an objective assessment of remuneration difficult and, in particular, in the absence of any clear description of the role and responsibilities of the senior positions in government it is difficult to objectively determine whether or not the uplifts in remuneration for responsibility are correct.
- 9.6 The Panel could do no more than rely on the consultation feedback which indicated that they are about right. A clearer statement of the role, responsibilities and core competencies might make a more objective assessment possible. The Terms of Reference require the Panel to identify any “deficiencies” and it believes that this is a deficiency that needs to be addressed.

10 FUTURE REVIEWS

- 10.1 This assessment of remuneration attempts to look ahead to a new structure of government that will come into effect in 2016, and the Panel believes that:
- the Principles set out in section 4 and the benchmark of median earnings will remain valid and relevant in the new system of government; and
 - based on the advice from the States Review Committee, that the basic elements of the general role of States Members will not change significantly (they will still be Members of the States of Deliberation, and the Panel believes it is reasonable to assume they will have positions on one or more of the new government bodies and they will still represent their constituents).
- 10.2 There is, however, an element of uncertainty and the true effects of the changes in government will not be known until the new system has been introduced and has operated for a period of time.
- 10.3 The Panel recommends that a further review should be carried out once the new system of government has had a reasonable amount of time to “bed in”. If nothing else, such a review could examine whether the new system has had a significant impact on the time commitment and responsibilities elements of the remuneration package.
- 10.4 The panel also recognises that while the tracking of changes in median pay on an ongoing basis should provide stability of earnings, further reviews may prove necessary in the event of a significant change in circumstances.
- 10.5 Such changes might include further significant changes to the system of government or, for example, a decision on Island-wide voting (which in turn might trigger a debate on whether or not the role of States Member should be

regarded – and remunerated – as truly full-time and/or professional. That may also lead to conclusions on their social security status).

- 10.6 The Panel received numerous representations to the effect that States Members felt that it was inappropriate for them to discuss their own remuneration and that they would prefer such remuneration to be reviewed and set independently without any debate in the States of Deliberation. The Panel recommends that this is the case in respect of any future reviews and also recommends that consideration be given to establishing a standing Review Panel or taking steps to retain some review experience so members of any future Panel do not have to ‘start from scratch’ each time, particularly if the review period available is limited.

11 MATTERS OUTSIDE OF THE TERMS OF REFERENCE

Appointments of Non-States Members

- 11.1 The Panel was disappointed to note that the number of appointments to Non-States Member positions was well below the maximum possible number, particularly in relation to departments.
- 11.2 As the result of consultation and other feedback, it is aware that there appears to be no shortage of individuals who are prepared to occupy these positions and the Panel strongly believes that they should all be filled because Non-States Members:
- provide government bodies with valuable knowledge, experience and skills (which they might not otherwise have);
 - provide a non-political viewpoint on issues,
 - assist with workload; and
 - can have a positive effect on cultures and behaviours.
- 11.3 Furthermore, occupying a Non-States Member position is a means by which a member of the public can gain experience of the workings of government. That experience would be particularly useful for somebody who was considering standing for election at some time in the future.
- 11.4 In support of Principle A (to encourage widespread participation by individuals of diverse age and experience, regardless of gender), the panel recommends consideration be given to participation in the Not-for-Profit Board Apprentice scheme, run in conjunction with the Guernsey Training Agency, or other such scheme. This would provide a zero cost way of providing training for potential future States Members and also increase the pool of those with experience to act as Non-States Members.

11.5 The Panel believes strongly that every Non-States Member position should be filled and proposes that the Policy Council:

- considers setting up a register of individuals who wish to be considered for a Non-States Member position,
- examines whether or not to make it compulsory to fill any Non-States Member position on government bodies.

12 RECOMMENDATIONS

12.1 The Panel recommends that:

- i) Median earnings should remain the benchmark for remuneration.
- ii) Some existing provisions for responsibility should remain in place and applied as follows:

Chief Minister Minister	President, Policy and Resources Committee. Presidents, Principal Committees, Scrutiny Management Committee and States' Assembly and Constitution Committee and ordinary members of the Policy and Resources Committee.
All other Deputies	All other Deputies.
- iii) There should be no specific responsibility adjustments for Vice-Presidents.
- iv) There should be no additional remuneration paid to States Members who are appointed to temporary committees and non-government bodies.
- v) There should be no changes in relation to the status of States Members as self-employed for the purposes of social security, unless there are changes in social security rates in the future.
- vi) There should be no pension scheme for States Members.
- vii) Alderney Representatives should continue to receive basic remuneration and if they are appointed to a Committee, Authority or the States' Trading Supervisory Board, they should receive the same additional remuneration for the responsibility of the relevant appointment that would be applied if the same position had been occupied by a Deputy.
- viii) Non-States Members should be remunerated at £2,000 per annum (subject to an annual review and adjustment according to percentage changes in median earnings).

- ix) The payment of expenses as a tax-free allowance should end and an allowance for expenses should be included in remuneration. It should initially be set at £2,670 per Deputy and £1,335 for Alderney Representatives.
- x) At the beginning of a political term, any States Member or Non-States Member who chose to accept the remuneration should only have one opportunity to either accept or reject any changes in such remuneration that might result from any changes in median earnings.
- xi) Remuneration should be automatically adjusted annually, based on any percentage change in median earnings, as published in March each year. In the event of a negative change, no increase should be awarded. Should a percentage increase occur in the year following a negative change, the award should reflect the percentage change from the year preceding the negative change.
- xii) Notwithstanding recommendation xi) there should be a further review of the remuneration of States Members and Non-States Members once the new system of government has been in operation for a reasonable amount of time.

Alex Rodger
Chairman

Michelle Johansen

Richard Digard

2nd November 2015

APPENDIX 1 of the Independent Review Panel Report

States Review Committee - guidance on members' various roles and responsibilities in the new committee structure

1. Introduction

In its second policy letter concerning the reorganisation of States' affairs (Billet d'État XII of 2015), the States' Review Committee stated:

"While it may not be possible to draw up a conventional job description for a Deputy, it should be possible to provide greater clarity about broadly what is expected in each of a Deputy's many roles, e.g. district deputy, committee member, scrutineer and parliamentarian. This could assist potential candidates for election and in time lead to members being offered a more structured approach to developing skills for their various roles. It could also assist independent panels established to review members' remuneration, especially in the case of the review which the Policy Council is obliged to arrange in advance of the change to the new and quite different committee structure next May.

"The Committee intends to work with the States' Assembly & Constitution Committee to publish – and submit to the independent panel on remuneration – guidance on members' various roles and responsibilities in the new committee structure. It is recognised by both Committees, and indeed by the Home Department, that every effort will need to be made to ensure that electors and prospective candidates are well informed about the restructuring of the States."

The purpose of this memo is to assist the independent panel on remuneration in its understanding of the various roles and responsibilities of States' members.

2. Guernsey's Political System

First, by way of background, it is useful to draw attention to Guernsey's political system, which greatly affects the demands, expectations, challenges etc. of the island's politicians. The following is another extract of the States' Review Committee's second policy letter:

"In almost all other parliamentary democracies the functions of government are allocated to representatives of the party or parties who, alone or in coalition, hold the most seats in parliament and they have the necessary authority for the formation of an executive or government. Policy is made by the government within a legislative and budgetary framework set by parliament.

"Guernsey, however, does not have an executive or government in the conventional sense, i.e. as something distinct from, although accountable to, parliament. Instead, parliamentary and governing functions are fused in one body, the States of Deliberation. Therefore, Guernsey, almost uniquely, is governed not just through its

parliament but by its parliament. This is crucial in understanding Guernsey's political system.

"In practice, most day-to-day functions are carried out by committees of the States, each of which is independently responsible to the States of Deliberation. Committees of the States – individually or collectively – are in no way analogous to an executive or government. A committee is in effect an agent of the States of Guernsey exercising functions conferred on it by resolution of, or legislation approved by, the States of Deliberation.

"The States of Deliberation:

- allocate the functions of government;*
- carry out the functions of government which they have retained – for example, policy determination;*
- debate and vote upon proposals to enact, amend or repeal legislation;*
- debate and vote upon proposals for taxation and expenditure;*
- scrutinise and hold to account the policies, decisions and administration of those functions of government which they have allocated to their committees.*

"The involvement of the States as a parliament in determining policy and making 'executive' decisions results in much political and governmental business being carried out in open debate in public whereas in many other jurisdictions it would be dealt with in private by a distinct executive or government. In one respect this contributes positively to democracy, demonstrating open, plural debate and transparent decision-making. On the other hand, it can adversely affect perceptions of good governance.

"A further important aspect is that the States undertake functions and provide services which in larger jurisdictions would be found distributed between central, regional or local government and other bodies. In a relatively small jurisdiction with a very high degree of self-government this 'unitary' approach is cost-effective and logical. However, the concentration of such a broad range of responsibilities inevitably brings challenges both in terms of planning policy and delivering services.

"While consultation undertaken by the Committee and the debate and resolutions made on its first policy letter indicated considerable support for reform, very little political and public appetite was expressed for discarding Guernsey's committee system of administration altogether.

"What was proposed by the Committee and endorsed by the States reflected this desire for meaningful but measured change. The improved system endorsed by the States last

year and developed further in this policy letter is emphatically a committee system of administration: it is based upon the Island being governed by the States through their committees. The essential role and functions of the States of Deliberation – including the primacy of the Assembly in determining policy – will remain unchanged.”

3. Broad Outline of Responsibilities

Broadly speaking, every People’s Deputy has three roles:

- Member of the States of Deliberation

The activities of the States of Deliberation (generally referred to as simply “the States”), e.g. making legislation, debating policy and scrutinising committees, are set out above.

Legislation (Projets de Loi, ordinances and statutory instruments) and policy proposals (policy letters) are normally circulated to States’ members around five weeks before the date of the States’ meeting at which they are to be considered. Most months members can expect to receive legislation and policy letters running to the equivalent of around 300 to 400 pages of A4. Amendments, of which there are typically several each month, are circulated closer to the date of the meeting. There are few restrictions on speaking in the States and most members contribute to several debates each month – some make prepared speeches and others prefer to speak extemporaneously. Substantial matters are almost always settled by recorded votes, which are published soon after.

The States normally meet monthly, except in August. Meetings start on the last Wednesday of every month and, if necessary, continue on the Thursday and Friday of that week and occasionally, during periods of heavy business, resume two Wednesdays later for one, two or three days. Sitting hours are normally 09:30-12:30 and 14:30-17:30. In 2014, the States sat for 176 hours over 30.5 days. Members do not need permission to be absent; however, unlike most other parliaments, there is a general expectation that, notwithstanding short comfort breaks, members will attend all of every day that the States sit: for example, in the most-recent period for which statistics are available attendance at morning roll call was 97% and attendance for recorded votes (which are taken throughout the day, generally at short notice) was 95%. Preparation time for a States’ meeting is dependent upon the complexity of the proposals before the States, how many items the member wishes to speak on and whether the member is proposing or seconding amendments. In any event preparation time frequently includes attending briefings organised by States’ committees whose proposals are about to be debated and stakeholders and interest groups who are affected by the proposals. It seems doubtful that a member could be properly informed on every matter before a busy States’ meeting without at least 20 hours’ preparation time; for some preparation time will be double that.

In the absence of political parties, like-minded deputies will often work together on an issue-by-issue basis, especially leading up to States’ debates on substantial items. This work can be time-consuming, not least because deputies collaborating independently of States’ committees have no research support.

- Member of States' Committees

States' committees develop policy, advise the States on policy, carry out or arrange to be carried out operational functions for which the States have made them responsible, and review performance and budgets with a view to securing improved outcomes for the community. Members of scrutiny committees concentrate on examining and challenging policy-making committees.

Currently members sit on between one (six members) and five (three members) committees. Workload varies greatly depending upon the number of committee memberships held, the portfolio of the committee and the number and activity of its sub-committees. Committees with broad portfolios typically meet at least once a fortnight – sometimes weekly – for half-a-day and there can be several sub-committee meetings each month. Papers, which can run to well over a hundred pages of A4, are typically circulated a few days' before meetings. These days less substantial committee business is often transacted electronically in between formal meetings.

Attendance at committee meetings is usually in excess of 90%. Excluding presidents of committees, membership of a committee could take up anything from around 10 hours a month to around 60 hours a month.

Notwithstanding the political system, as outlined in point 2 above, a committee president inevitably carries additional responsibilities, not least because he or she is seen as the public face of the committee. The States' Review Committee's second policy letter stated:

“Constitutionally all members of a committee are equal but it is widely recognised that the quality of a leader can make or break a committee. Presidents of Principal Committees will inevitably be required to speak for a committee without it being practicable on every occasion to consult with every other member. Examples might include when speaking in the States, handling media inquiries, attending scrutiny hearings, replying to correspondence and setting meeting agendas.”

The additional responsibilities of a committee president are often time-consuming, although this can vary considerably between presidents of different committees.

In practice it is the presidents of major committees who, since they hold the senior offices, have to take the greatest responsibility for the most difficult political judgements. This is especially true for committees with a high public profile, e.g. in the areas of education, health care, fiscal policy, policing and transport.

- Electoral District Representative

It is clear that this element of a deputy's workload varies considerably depending upon his or her profile, interests and time available. Some deputies undertake 'constituency' work only or predominantly inside their own parish or district; others often undertake such work across the island. Members of the public in need of advice or support may

approach a deputy face to face or by phone, e mail, social media etc. This work can range from asking questions in the States about matters raised by members of the public to advising parishioners on dealing with States' committees to representing parishioners' interests in quite complex cases regarding, say, access to social security benefits, housing, health care or education. In some parishes/districts there are surgeries, typically once a month, at which members of the public can raise matters of interest with their deputies. Deputies are also invited to parish Douzaine meetings each month. It is estimated that a deputy's constituency workload ranges from a few hours a month to ten or more hours a week.

4. Other Considerations

A few deputies travel off-island frequently. They tend to fall into two groups: those holding the most senior posts, who lead the States' external relations activities, and those who play the most active roles in the Guernsey branch of the Commonwealth Parliamentary Association.

Deputies are expected to attend certain civic events. These duties are much greater for holders of the most senior posts than they are for other deputies.

The ease of electronic communication has undoubtedly placed additional demands on the time of States' members. It is now easier for civil servants and members of the public to contact their deputies and many who do expect a prompt response. A growing number of deputies are active participants on various social media forums and some of those who are not can face criticism for a perceived failure to engage by modern means.

A few deputies, most often those who lead high-profile committees, are often in demand for interviews by the conventional media, although even for the busiest it is doubtful that these commitments take up more than an hour or two a week. What has perhaps changed in recent years is the amount of time spent, including sometimes by deputies, contributing to media releases, the publication of consultation documents etc.

The second policy letter of the States' Review Committee set out some general changes to the role of States' member:

"It is evident that the prevailing approach of Deputies to their work has also changed considerably over the past two or three decades. This has been influenced by several developments: society's expectations have changed; the economy is markedly different; there tends to be greater scrutiny of decisions and in some respects the volume of work may have increased and may also have become more complex.

"This has been reflected in changes to remuneration. Generally what was at one time regarded primarily as compensation for time lost in employment outside of the States has become more akin to a salary (although for social insurance purposes Deputies are classed as self-employed) and many more Deputies than was the case until relatively recently are attending to States' work on something at least approaching a full-time basis and in some cases more than that."

It may be that this trend is also related to the uncertainty of a deputy's workload. The hours are not fixed or even very predictable. There are none of the defined boundaries common to an employee. Once elected, very few deputies are able to hold down a normal form of employment. Often the question is asked "Is being a deputy a full-time job?" but the more relevant question may be "Can a deputy realistically hold down another full-time job or even a part-time job with inflexible hours?" and the answer is almost certainly "no".

5. Changes Relating to the Reforms of the States' Review Committee

Last year the States committed to significant organisational reforms to take effect in May, 2016. They include the formation of a Policy & Resources Committee in place of the present Policy Council and Treasury & Resources Department; the replacement of the ten departments with six Principal Committees; the establishment of a small number of authorities and boards; and substantial changes to the States' scrutiny function. The States' Review Committee's second policy letter explains, among other things, how the roles and responsibilities of various committees, and by extension the members of those committees, are expected to change from next May. The remuneration panel will doubtless be keen to familiarise itself with these changes. With this in mind, the States' Review Committee would be only too pleased to meet the panel during the second half of October as the panel begins to draw its proposals together.

APPENDIX 2 of the Independent Review Panel Report

Current Maximum Payments to States Members

Chief Minister	£62,523
Deputy Chief Minister	£49,627
Ministers	£47,394
Chairmen of standing Committees	£40,137
Deputy Ministers and Vice-Chairmen of standing Committees	£36,910
All other Members	£34,355
Alderney Representative (with no seat on a Department or Committee)	£10,735
Alderney Representative (with a Department or Committee seat)	£14,922
Alderney Representative (Deputy Minister or Vice Chairman)	£17,155
Alderney Representative (Chairman)	£19,947
Alderney Representative (Minister)	£26,310
Alderney Representative (Deputy Chief Minister)	£28,543
Alderney Representative (Chief Minister)	£41,439
Expenses	
Chief Minister	£3,205
Alderney Representatives	£1,068
All other Members	£2,137

(N.B. The Treasury and Resources Department only wishes to comment on the resource implications arising from the proposals within this Policy Letter.

The maximum claimable under the current scheme (based on 2015 rates) by Deputies and Alderney Representatives is £1.89million although actual expenditure will be lower for a number of reasons including: claimants aged over 65 do not receive the social security uplift; members holding two positions of responsibility only receive one remuneration enhancement; and some members have chosen not to receive some or all of the annual median earnings increase or not claimed some elements of remuneration to which they are entitled.

The maximum claimable under the proposed scheme (based on 2015 rates) by Deputies and Alderney Representatives is estimated to be £280,000 lower which is broadly in line with that expected as a result of the reduction in the number of Deputies from 45 to 38.

The Department welcomes the proposed simplification in the administration arrangements for remunerating States Members and Non-States Members.)

The States are asked to decide:-

X.- Whether, after consideration of the Policy Letter dated 9th November, 2015, of the Policy Council, they are of the opinion:-

1. That the remuneration allowance paid to Deputies with effect from 1st May 2016 shall be as follows:

President of the Policy and Resources Committee	£65,315*
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Presidents of the Principal Committees, President of the Scrutiny Management Committee, President of the States' Assembly and Constitution Committee and Members of the Policy and Resources Committee	£50,185*
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All other Deputies	£37,147*
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* Social Security uplift to be deducted for those aged 65 and over

with an adjustment in accordance with changes in Guernsey median earnings as published in March 2016 provided that, in the event of a negative change, no adjustment should be made.

2. That the remuneration allowance paid to Alderney Representatives from 1st May 2016 shall be:

President of the Policy and Resources Committee	£42,835*
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President of a Principal Committee, President of the Scrutiny Management Committee, President of the States' Assembly and Constitution Committee or Member of the Policy and Resources Committee	£27,705*
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With a seat on a Committee, the Transport Licensing Authority, the Development and Planning Authority or the States Trading Supervisory Board	£20,503*
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All other Alderney Representatives	£12,130*
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* Social Security uplift to be deducted for those aged 65 and over

with an adjustment in accordance with changes in Guernsey median earnings as published in March 2016, provided that, in the event of a negative change, no adjustment should be made.

3. That in the event that a President of a Principal Committee, the Scrutiny Management Committee or the States' Assembly and Constitution Committee is unable to fulfil his or her duties for a period in excess of four weeks and the Vice-President takes on the full responsibilities of that post, his or her remuneration will temporarily increase to the level of a President.
4. That the remuneration allowance paid to Non-States Members from 1st May 2016 should be £2,000 per annum and should only be paid to the relevant members of the six Principal Committees, the Scrutiny Management Committee, the Transport Licensing Authority, the Development and Planning Authority and the States Trading Supervisory Board.
5. That any Alternative Alderney Representative shall be entitled to be awarded in respect of his attendance at a properly convened meeting of the States of Deliberation which he has been appointed to attend, pursuant to section 4 of the States of Guernsey (Representation of Alderney) Law, 1978 an attendance allowance of £69 per half-day or part thereof (with an adjustment in accordance with changes in Guernsey median earnings as published in March 2016 provided that, in the event of a negative change, no adjustment should be made), which sum shall be subject to tax.
6. That the remuneration of States Members, Non-States Members and attendance allowance for Alternative Alderney Representatives should be automatically adjusted annually on 1st May, based on any percentage change in median earnings, as published in March each year. In the event of a negative change, no

adjustment should be made. Should a percentage increase occur in the year following a negative change, the award shall reflect the percentage change from the year preceding the negative change.

7. To direct the Treasury and Resources Department (and its successor Committee) to continue to provide States Members with standard information technology equipment and software.
8. That at the beginning of a political term, any States Member or Non-States Member who chose to accept remuneration would be required to decide either to accept or reject any changes in such remuneration that might result from any changes in median earnings during the relevant political term.
9. To direct the Policy and Resources Committee to present to the States of Deliberation for approval the necessary amendments to the Rules for Payments to States Members, Former States Members and Non-States Members of States Departments and Committees to give effect to their above decisions.
10. To direct the Policy and Resources Committee to set up an independent review of the remuneration to be paid to States Members and Non-States Members not later than 1st May 2018; or at any other time in the event of a change in circumstances that has a significant effect on the roles and responsibilities of those Members.

POLICY COUNCIL

ELECTION OF THE CHAIRMAN OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

1. Executive Summary

- 1.1 This Report proposes the election of Drs.¹ Cornelis Antonius Carolus Maria Schrauwens (known as Drs. Cees Schrauwens) as Chairman of the Guernsey Financial Services Commission.

2. Report

- 2.1 The Chairman of the Commission must be elected annually by the States from amongst the ordinary members of the Commission (colloquially known as Commissioners) following nomination by the Policy Council. Drs. Cees Schrauwens' current term of office as Chairman ends on 1st February 2016; he has been a member of the Commission since 2008.
- 2.2 Drs. Schrauwens is a Dutch citizen and has more than 35 years' financial services experience. He has served as Managing Director of Aviva International, CGU Insurance and Commercial Union covering both the general insurance and life sectors. He was instrumental in the mergers with General Accident and Norwich Union which resulted in the creation of Aviva PLC. Following the mergers he was appointed Managing Director of Aviva International, gaining valuable experience in dealing with regulators across the globe, including North America. In addition he has been a Partner with Coopers & Lybrand in charge of insurance consultancy and has served as Chairman of Drive Assist Holdings Limited, Senior Non-executive Director of Brit Insurance Holdings PLC. and Brit Syndicates Limited, Non-Executive Director of Canopus Holdings UK Limited and Canopus Managing Agents Limited and as a Director of Munich Re (UK) PLC. Drs. Schrauwens has been the Senior Non-Executive Director of Record PLC since November 2007. In May 2012 he was appointed as an Independent Director at Scottish Widows Group PLC.
- 2.3 The Commission is continuing to face considerable international challenges. These include contributing to Guernsey's responses to EU directives in order to maintain access by Guernsey businesses to EU investment markets and the recommendations in the Moneyval report on Guernsey's framework for anti-money laundering and combating the financing of terrorism (AML/CFT). The Commission will be undertaking significant work in relation to meeting international standards and preparing for future evaluations of Guernsey's regulatory, supervisory and AML/CFT frameworks. The proposals, agreed by the States in October 2015 for revision of the financial supervisory and regulatory laws, form part of these preparations. The Policy Council recognises the

¹ 'Drs.' is short for Doctorandus, which is a Dutch academic title.

challenges faced by the Commission and the importance of meeting them, while focusing on controlling costs and maintaining constructive relationships. It believes Drs. Schrauwens' prior experience has shown him to be well equipped to continue as Chair for another term.

- 2.4 Accordingly, the Policy Council is pleased to re-nominate Drs. Schrauwens as Chairman of the Commission for a year from 2nd February 2016 until 1st February 2017.

3. Recommendation

- 3.1 The Policy Council recommends the States to elect Drs. Cornelis Antonius Carolus Maria Schrauwens as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February 2016.

J P Le Tocq
Chief Minister

30th November 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

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

The States are asked to decide:-

XI.- Whether, after consideration of the Policy Letter dated 30th November, 2015, of the Policy Council, they are of the opinion to elect Drs. Cornelis Antonius Carolus Maria Schrauwens as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February 2016.

ENVIRONMENT DEPARTMENT

REVIEW OF THE LAND PLANNING AND DEVELOPMENT (USE CLASSES) ORDINANCE, 2007

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

27th October 2015

Dear Sir

1. **Executive Summary**

- 1.1 The Report by former England and Wales Chief Planning Inspector Mr. Chris Shepley into Guernsey's Planning Service published in April 2008 (the 'Shepley Report') recommended, inter alia, that the 2005 Land Planning and Development (Guernsey) Law be introduced as soon as possible and that, within twelve months after its commencement, it be reviewed. The Report recommended simplifying use classes and expanding exemptions, the latter primarily in order to assist the Department to improve its performance and focus less on detailed control of small-scale development.
- 1.2 The Land Planning and Development (Guernsey) Law, 2005 ('The Law') came into effect on 6th April 2009.
- 1.3 The Land Planning and Development (Use Classes) Ordinance, 2007 (the 'Use Classes Ordinance'), also came into force on 6th April 2009. It contains 44 separate use classes along with a list of specific uses which do not fall within any use class (known as 'sui generis' uses).
- 1.4 Following a review of the current legislation and consultation with stakeholders, the Environment Department has identified scope to simplify the Use Classes Ordinance, reducing the number of use classes from 44 to 28. A limited number of new use classes are proposed to reflect changed circumstances and the development of new policy approaches.
- 1.5 Some changes are also proposed to the Land Planning and Development (Exemptions) Ordinance, 2007 (the 'Exemptions Ordinance') to reflect the proposed amendments to the Use Classes Ordinance and expand the number of permitted changes between use classes in appropriate circumstances.
- 1.6 The proposals will result in a considerable simplification of the current legislation through reducing the requirement for planning applications to be made for certain changes of use. It is anticipated that this will in particular improve the operation of the commercial market for industrial and storage/distribution premises and have consequent economic benefits for the Island.

- 1.7 The main purpose of this Policy Letter is to seek the approval of the States to amend the Use Classes Ordinance, and to make associated amendments to the Exemptions Ordinance and any other consequential amendments to planning and other legislation.
- 1.8 The Policy Letter also recommends the rescission of a previous States resolution (made pursuant to Billet d'État XXV, 2007) which effectively implied that planning covenants for securing affordable housing would only be applied on Housing Target Area sites. The rescission is to reflect the changes to strategic policy, in relation to applying planning covenants on larger private market sites, set out in the Strategic Land Use Plan.

2. **Introduction**

- 2.1 In April 2008, Mr. Shepley reported on the outcome of his review of Guernsey's Planning Service. His report (the 'Shepley Report') addressed the issues affecting the Department at that time in a holistic way, making a large number of recommendations dealing with, amongst other things, the future location of the Planning Division within the States of Guernsey, openness and communications, processes, resources, timescales and detailed control of small-scale development.
- 2.2 At the time of the Shepley Report, most of the essential Ordinances required to bring the 2005 Land Planning and Development (Guernsey) Law into effect had been approved by the States and the legislation was in the final stages of being introduced. The Law and Ordinances were brought into effect on 6th April 2009. Within this context, a key recommendation of the Shepley Report was that:

“... the new Law is implemented as soon as possible and that the effect of the extension of exemptions is monitored. After a period of twelve months I recommend that, subject to consultation, exemptions are further extended. Similarly, I recommend that the changes to the Use Classes Order are monitored and further simplification should be considered after twelve months.”

- 2.3 The basis for this recommendation was principally, and in combination with other recommended actions, to reduce the amount of relatively minor development which falls within the ambit of planning control and thereby to enable the Department to improve its performance and focus more effectively on more significant planning issues.
- 2.4 The introduction of the new Law in 2009 and the recommendations made in the Shepley Report in 2008 have in combination enabled the Department to make very significant improvements to its practices and performance in a number of important areas. The changes made have included:
 - Publication of extensive guidance material covering a wide range of topics;
 - Changes to the types of planning permission issued resulting in a decrease in the number of planning applications overall;
 - Increased exemptions from planning control;
 - Introduction of application fees;
 - Increased delegation of planning decisions to professional planning officers and introduction of open planning meetings to deal with the more contentious cases, with public speaking at Open Planning Meetings initiated more quickly than anticipated by the Shepley Report;

- Introduction of 8 and 13 week performance targets for dealing with planning applications and separate performance targets focusing on more minor applications.

2.5 Prior to the introduction of the new legislation in April 2009, the relevant Use Classes Ordinance was the Island Development (Use Classes) Ordinance, 1991. Whereas this Ordinance contained 60 separate use classes, its successor, the current 2007 Use Classes Ordinance, contains 44 use classes.

2.6 In accordance with the relevant recommendations of the Shepley Report, the Department has carried out a review of the 2007 Use Classes Ordinance and has consulted with other States Departments and stakeholders. Having done so, the Department has identified scope to simplify the Use Classes Ordinance, further reducing the number of use classes, and also to increase the number and scope of permitted changes of use between different classes. The Department has also identified a limited number of instances where new use classes are required to reflect changed circumstances and the development of new policy approaches, particularly in relation to certain housing and retail uses.

3. **The 2007 Use Classes Ordinance**

3.1 The Land Planning and Development (Use Classes) Ordinance, 2007 (the ‘Use Classes Ordinance’), which came into force on 6th April 2009, contains 44 Use Classes relating to the following categories of use:

- (i) Residential (9 separate use classes – numbered 1-9);
- (ii) Visitor economy (4 separate use classes – numbered 10-13);
- (iii) Retail (7 separate use classes – numbered 14-20);
- (iv) Administrative, financial and professional services (3 separate use classes – numbered 21-23);
- (v) Public amenity (6 separate use classes – numbered 24-29);
- (vi) Storage/Distribution (7 separate use classes – numbered 30-36);
- (vii) Industry (7 separate use classes – numbered 37-43);
- (viii) Agriculture (a single use class - numbered 44).

3.2 Planning permission is required to change from one use to another between different use classes but not to change from one use to another within each of the use classes. A change of use within a numbered use class is not classed as development for which planning permission is required under the Law.

3.3 The Use Classes Ordinance also contains a list of specific uses which do not fall within any use class (known as ‘sui generis’ uses). Planning permission is required for a material change of use either from or to a sui generis use. The 2007 Use Classes Ordinance lists the following uses as sui generis:

- (i) Sale of fuel for motor vehicles or boats;
- (ii) Taxi business;
- (iii) Betting office;
- (iv) Funeral parlour or business of a funeral director or undertaker;
- (v) Veterinary clinic or boarding of animals;
- (vi) Abattoir or knacker’s yard;
- (vii) Sale, or display for sale or hire, of motor vehicles;
- (viii) Casino.

4. **Proposed amendments to the Use Classes Ordinance**

4.1 As referred to earlier in this Policy Letter, the 2008 Shepley Report specifically recommended that the number of use classes be further reduced, primarily in the interests of simplifying the Ordinance. The Department is also aware of concerns from a commercial perspective that the number of use classes particularly within the industrial and storage/distribution sectors is an inhibitor, or perceived inhibitor, to economic activity and growth, mainly due to the requirement to obtain planning permission to move between the numerous current classes. In addition, there is a need to consider creation of a limited number of new use classes to reflect changed circumstances and the development of new policy approaches, particularly in relation to certain housing and retail uses.

4.2 The proposed amendments to the 2007 Use Classes Ordinance are set out in detail below. These are described in order reflecting the structure of classes within the existing Use Classes Ordinance. For the avoidance of doubt, the current Administrative, financial and professional services use classes would be unchanged, apart from being re-numbered as a result of the changes proposed to other use classes, and they are therefore not mentioned specifically below. For ease of comparison between the existing and proposed situations, the proposed changes to the Use Classes Ordinance are summarised in the table in **Appendix One**.

4.3 Residential Use Classes

4.3.1 The existing Residential use class 3, relating specifically to **sheltered housing**, would be retained and amended to further emphasise the support provided for residents through the provision of facilities such as on-call assistance from a resident or nearby warden and other support services associated with such accommodation. The existing sheltered housing use class currently limits occupancy of such accommodation to households at least one of whom has attained an age of 55 years, or requires access to facilities because of disability. This specific age-related restriction on the occupation of sheltered housing has become increasingly irrelevant to the planning purpose of classifying such accommodation as separate from the general housing stock which centres on the support services that are provided to occupants, irrespective of age. The amended sheltered housing use class would therefore not limit occupation to those who have attained 55 years of age.

4.3.2 The amended sheltered housing use class would be supplemented by a new use class relating to **specialised housing**. This form of housing is distinguished by the provision of care for residents, as distinct from the support services of sheltered housing. In accordance with the 2011 Strategic Land Use Plan, specialised housing will therefore include extra-care accommodation, examples of which include the schemes at La Nouvelle Maritainne, Vale and Le Grand Courtil, St Martins. Furthermore, and as noted in paragraph 4.3.5 below, the new Specialised Housing use class would also include nursing and residential homes and other accommodation for people in need of care, where care staff operate on-site and residents tend to live in single-room accommodation. Although the resulting use class would be relatively broad, allowing potential for movement between uses falling within it without the need for planning permission, it is recognised that Government controls exist outside of the planning system, primarily operated by the Health and

Social Services Department, that are effective in regulating such specialised residential uses. It is not the purpose of the planning system to duplicate such controls.

- 4.3.3 The use class (current use class 4), relating to use of a dwelling in part for business purposes, will remain but be re-numbered, and continue to offer householders the benefit of flexibility by enabling certain uses such as home-based small-scale retail, office or industrial activity to take place in locations where independent use for such purposes might not be permitted. However, the Department intends to publish for the first time guidance regarding when such use would be likely to amount to a material change of use in planning terms. This will help clarify the legal position and circumstances when low-key business uses may take place within dwellings without the need for planning permission.
- 4.3.4 Two current separate use classes, relating to houses in multiple occupation and lodging houses (current use classes 5 and 6) are proposed to be amalgamated into a single use class relating to **premises in multiple occupation**. 'Lodgings' is now a somewhat out-dated term and the retention of two separate use classes to deal with what is essentially a single category of establishment in planning terms is considered unnecessary.
- 4.3.5 Three current separate use classes relate to hospitals, nursing homes or residential establishments for the provision of accommodation and care and to residential schools, colleges and training centres (current use classes 7-9). There are at present no residential schools, colleges or training centres in Guernsey, and should any such be proposed in the future they could be considered on their own particular merits, effectively as a sui generis use. Similarly, a hospital is likely to be relatively easily distinguished from other uses and its definition as at present in a use class relating solely to that use is considered unnecessary. Nursing homes and care homes are primarily intended to provide care to residents and would be best considered as a form of specialised housing as described in paragraph 4.3.2 above.

4.4 Visitor Economy Use Classes

- 4.4.1 Two current separate use classes, relating respectively to guest houses/private hotels and hotels (current use classes 10 and 11) are proposed to be amalgamated into a single use class relating to **serviced visitor accommodation**. This would include Hotels, Guest Accommodation, Serviced Apartments and other minor classifications where there is an element of guest services required by the quality rating standard and therefore by the Boarding Permit for the premises. These uses are considered to have similar implications in planning terms and the retention of two separate use classes is considered unnecessary.
- 4.4.2 The use class relating to **non-serviced visitor accommodation**, being principally self-catering accommodation but including hostels and other group accommodation (current use class 12) would remain. However, it is proposed that the recognised position regarding winter lets, i.e. that these may take place without a requirement for prior planning permission

in such accommodation from 1st November to 31st March each year, will be clarified within the Ordinance.

4.4.3 The current Visitor Economy use class 13 provides for:

“Use as a visitor attraction other than –

a use for a retail trade or business falling within use class 14,
a use as a theatre or cinema falling within use class 28, or
a use falling within use class 29.”

The range of uses on Guernsey providing attractions and facilities, to visitors and locals alike, is extensive, including those that provide a predominantly retail, leisure or recreational experience or a combination of these uses. Reflecting this diversity of character and use, it is considered most appropriate, therefore, in planning policy terms to apply use classifications to such sites according to the principal use of the proposal, site or premises. This reflects the approach proposed in the draft Island Development Plan which does not have policies specifically for visitor attractions, given the wide range of possible types of development that could be considered a visitor attraction, but does seek to support them wherever possible. This proposed approach is intended to provide more flexibility for businesses to develop not limited to only visitor attraction use as described in the current use class. On this basis, given the characteristics of such attractions which may potentially include a number of ‘principal’ uses, there is no need for a specific use class and it is therefore proposed to not replace the existing use class relating to “visitor attractions” within the new Use Classes Ordinance.

4.5 Retail Use Classes

- 4.5.1 In line with the policy direction of the 2011 Strategic Land Use Plan (Billet d’État No XIX of 2011), and in accordance with Strategy Proposal 10 of the Island’s Retail Strategy, the policies of the draft Island Development Plan draw a distinction between the two broad categories of retail use; ‘convenience’ and ‘comparison’. Convenience retail is defined in the draft Island Development Plan as *‘the selling of, often essential, daily items such as fresh produce, food and drink’*. To reflect this policy approach, it is proposed that a new use class is created relating to **convenience retail** use. The new convenience retail use class would include only the sale of, often essential, daily items.
- 4.5.2 Comparison retail is the selling of goods including clothing and footwear, furniture, furnishings and household equipment, which generally involves comparing similar goods before buying. In accordance with the strategic policy direction of the Strategic Land Use Plan, and the findings of the Island’s Retail Strategy, the draft Island Development Plan supports both comparison and convenience retail within the Main Centres of Town and The Bridge, but limits new comparison retail to within the Main Centres in order to safeguard their retail function and to help sustain them as the Island’s primary retail destinations.
- 4.5.3 Reflecting this proposed change, the terms of current retail use class 14 would be amended to exclude convenience retail and the equivalent new use class would relate to **general retail** use including comparison retail.

This class would therefore include all the trades or businesses currently within the definition of "retail trade or business" in the 2007 Ordinance subject to the exclusion of convenience retail. The proposed general retail class would still include hairdressing, which is currently regarded as a retail use, and would also include for the avoidance of doubt similar uses such as beauty parlours and nail bars, which are not currently specified as retail uses. Tattoo parlours generally have a distinctly different appearance and character within the street to shops and would be included in the list of sui generis uses. The general retail use class would also include use as a launderette and use for the sale, or display for sale, to visiting members of the public of live animals, both of which are currently in separate retail use classes (current use classes 17 and 20). These changes will improve flexibility to allow the change of use of premises within existing retail areas to a somewhat wider variety of uses without the requirement to obtain planning permission.

4.6 Public Amenity Use Classes

- 4.6.1 Three current separate use classes, relating to non-residential educational establishments or training centres, museums, public archives, art galleries, libraries or reading rooms and for use as a place of public assembly or of public worship or for the social and recreational activities of a religious body (current use classes 25-27) are proposed to be amalgamated into a single use class relating to **non-residential establishments**. These uses are considered to have broadly similar implications to one another in planning terms and the retention of three separate use classes is therefore considered unnecessary.

4.7 Storage/Distribution Use Classes

- 4.7.1 Six current separate use classes, relating to general storage, cooled or refrigerated storage exceeding 10 cubic metres, storage of solid fuels, building materials or non-hazardous materials, storage or parking of motor vehicles, transfer of goods or distribution of goods in connection with their commercial storage and data and archive storage (current use classes 30-35) are proposed to be amalgamated into a single use class relating to **general storage/distribution**. These uses are considered to have similar implications to one another in planning terms and the retention of six separate use classes relating to these storage/distribution uses is considered unnecessary.
- 4.7.2 It is anticipated that this simplification of the Ordinance will improve the operation of the commercial market for storage/distribution premises and will have consequent economic benefits for the Island, without any significant adverse impacts on amenity or the environment.

4.8 Industrial Use Classes

- 4.8.1 It is proposed that the current use class 38, relating to use for any **general industrial purpose**, be expanded to include commercial laundries, which are currently in a separate industrial use class (current use class 39). Commercial laundries generally share key characteristics in terms of impact with general industry and retention of a separate use class is considered unnecessary.

- 4.8.2 Three further current separate use classes, relating to ‘special’ industrial uses, which are uses with high impacts on amenity, along with use for the production or processing of any article or substance which may be hazardous or present a risk to public health or safety and use for processing putrescible or offensive material or noxious organic material (current use classes 40, 41 and 43) are proposed to be amalgamated into a single use class relating to **special industry**. These uses are all considered to have broadly similar implications to one another in planning terms particularly in relation to their high impacts on amenity. The retention of three separate use classes relating to such industrial uses is considered unnecessary. In addition, and for the same reason, it is proposed that the Special Industry use class will include abattoir/knacker’s yards, which are currently listed as a separate sui generis use.
- 4.8.3 It is anticipated that this simplification of the Ordinance will improve the operation of the commercial market for industrial premises and will have consequent economic benefits for the Island, without any significant adverse impacts on amenity or the environment.
- 4.8.4 The existing use class relating to the sorting, treatment, baling, disposal or transfer of putrescible or inert waste (current use class 42) would be replaced with a broader use class relating to **waste**. A new definition of waste will be introduced to cover all relevant aspects. In this regard, section 73 of The Environmental Pollution (Guernsey) Law, 2004 provides that: “Waste includes (a) scrap material, effluent or other unwanted surplus arising from any process, and (b) anything which requires to be disposed of as being broken, worn out, contaminated, spoiled or redundant”. A broad definition of waste along these lines could similarly be utilised for planning purposes, recognising that waste activities are closely regulated by government outside of the planning process and that there is no need to duplicate such other controls. Use for composting carried out on a commercial basis or large scale (currently within use class 43) is however materially different to these activities and would be added for the avoidance of doubt to the list of sui generis uses.

4.9 Agriculture Use Class

- 4.9.1 The use class relating to agricultural land, including horticultural or forestry use (current use class 44) would remain. However, agriculture is not currently defined in the Use Classes Ordinance and it is proposed to clarify the intended meaning by adding a definition of agriculture. As well as covering uses such as arable, dairy and poultry farming, this will clarify that the use class is consistent with section 45A of the 2005 Land Planning and Development Law and includes land which is covered by a glasshouse and land which was covered by a glasshouse and which is used or, with the application of good husbandry, is capable of being used, for dairy farming, the production, rearing or maintenance of livestock, or market gardening or the outdoor cultivation of flowers, bulbs or nursery stock.
- 4.9.2 It is also proposed to clarify, through an addition to the list of sui generis uses, that so called “solar farms”, involving an installation or area of land in which a large number of solar panels are set up in order to generate electricity on a large or commercial scale, would fall outside of any use class specified within the Use Classes Ordinance.

4.10 Sui Generis Uses

4.10.1 As described above, the proposed amendments to the Use Classes Ordinance result in a reduction in the number of use classes overall from 44 to 28. It is also proposed to amend the list of defined ‘sui generis’ uses, falling outside of the numbered use classes, to delete use as an abattoir/knacker’s yard from the list as it would be included within the Special Industry use class. Composting would be added to the sui generis list (from current use class 43) as this is materially different to other activities covered in the proposed Waste use class. Nightclubs and campsites would also be added to the sui generis list, in the former case due to the potential amenity impacts and in the latter to clarify the sui generis status of such use of open land. It is noted that nightclubs are considered as sui generis uses in the United Kingdom due to their particular characteristics and potential amenity impacts. Tattoo parlours would also be added to the sui generis list to clarify their status as distinct from a retail use. “Solar farms” would also be added to this list to clarify their sui generis land use status.

5. **Permitted changes between use classes**

5.1 As well as significantly reducing the number of use classes as described above, it is also proposed to increase the number and scope of permitted changes of use between different classes.

5.2 At present, the Land Planning and Development (Exemptions) Ordinance, 2007, (the ‘Exemptions Ordinance’) sets out the following permitted changes between use classes for which planning permission is not required:

(i) **Class 6 – industrial change of use.** This Class of the Exemptions Ordinance allows for permitted changes from general industrial to light industrial use (current use class 38 to 37), and from special industrial use (current use classes 40-43) to general (current use class 38) or light industrial use (current use class 37).

(ii) **Class 9(2) – retail and administrative, financial and professional change of use.** This Class of the Exemptions Ordinance allows for permitted changes from special retail use (current use classes 15-17) to general retail use (current use class 14), and from an administrative office use (current use class 22) to use for the temporary relocation of an administrative office in an emergency (current use class 23).

5.3 The current permitted changes relating to administrative, financial and professional change of use and Industrial change of use would remain in place under the present proposals.

5.4 In addition, it is proposed to introduce new permitted changes between light industry and general storage use for premises up to 250 square metres in size and from general industry to general storage use for premises up to 250 square metres. This will allow considerable flexibility in the use of these smaller premises, which make up a significant proportion of the overall commercial building stock, and will help to improve economic performance in these sectors.

- 5.5 Permitted changes are also proposed from use class 5 (current use class 4 - use of a dwelling in part for business purposes) to either use class 1 or 2. This will enable reversion to sole use as a dwelling house or flat without the need for further permission and should thereby assist those wishing to work from home for a temporary period, perhaps during the initial stages of business development. It should be noted that use class 5 requires that the principal use is a dwelling. As noted above, the Department also intends to publish for the first time guidance regarding when such use would be likely to amount to a material change of use in planning terms. This will help clarify the legal position and circumstances when low-key business uses may take place within dwellings without the need for planning permission.
- 5.6 The current Exemptions for Retail change of use would not be retained under these proposals as they are not compatible with the changes proposed to the retail use classes which accord with the policy direction of the Strategic Land Use Plan and the findings of the Island's Retail Strategy. Transitional arrangements may be required to ensure that there is no disadvantage to those currently in the process of carrying out such a change of use arising from withdrawal of these existing exemption rights.

6. Policy Concerning the Use of Planning Covenants

- 6.1 In December 2007, the States considered the recommendations of a Policy Letter entitled "The Use of Planning Covenants in Guernsey" (Billet d'État XXV, 2007), which discussed the findings of a study by Environmental Resources Management into the application of planning covenants in the local planning system. The States noted the limited circumstances set out in the Policy Letter in which planning covenants would be applied to private residential developments i.e. to secure affordable housing only on sites already designated as Housing Target Areas (HTAs). The Housing and Environment Departments were also tasked with developing the mechanism by which planning covenants could be applied to the HTAs for application as and when required.
- 6.2 The Housing Department reported back to the States in May 2010 (Billet d'État XI, 2010) when the States resolved to approve the proposals that land owners should be able to enter into planning covenants for the purposes of ensuring the provision of social, intermediate or affordable housing, as set out in paragraphs 100 to 105 of the Housing Department's Policy Letter concerning the *Corporate Housing Programme – Progress against the 2009 Action plans and Future Strategy*, and also to direct the preparation of an Ordinance under the Land Planning and Development (Guernsey) Law, 2005 to give effect to this decision. The Land Planning and Development (Planning Covenants) Ordinance, 2011 was duly approved and came into force in September 2011 (Billet d'État XV, 2011). "Affordable Housing" is defined by Section 2(1) of this Ordinance.
- 6.3 The policy approach set out in the Housing Department's 2010 report which underpinned the 2011 Ordinance continued, however, to relate to the limited application of planning covenants to HTA sites, in accordance with the earlier States Resolution in 2007. However, this relatively restricted approach to meeting the Island's requirements for affordable housing only on sites already designated as HTAs is no longer appropriate in the light of significantly changed circumstances and furthermore would not enable the benefits of the changes proposed to the Use Classes Ordinance in relation to specialised housing to be fully realised.

- 6.4 Circumstances have changed as a result of the States approval in November 2011 of the current Strategic Land Use Plan. In relation to housing provision, the SLUP notes that: *“To meet the aims and objectives of this Plan, it will be necessary for the Development Plans to make allowance for a proportion of social and/or specialised housing to be secured through planning covenants or by condition on larger private development sites. Development Plan policies may also request the inclusion of a number of social and/or specialised housing units as part of general market housing developments.”* Strategic Policy SLP17 consequently requires that: *“The Development Plans will make provision for a range of social and specialised housing as part of the annual requirement for new homes as set out within Policy SLP13. Appropriate levels of provision of social and/or specialised housing on larger general market sites may be required through the use of planning condition or covenant and established through a specified mechanism.”*
- 6.5 In accordance with this provision of the Strategic Land Use Plan, the draft Island Development Plan includes policies for securing affordable housing contributions on larger private market sites, not restricted to sites already designated as HTAs, through the mechanism of planning covenants as directed by the Strategic Land Use Plan, 2011 and enabled by the Land Planning and Development (Planning Covenants) Ordinance, 2011. Section 8(2)(b)(iii) of the Law also requires, where appropriate, the Department to include in the Island Development Plan its policies for facilitating development by the promotion of planning covenants.
- 6.6 In the light of the above significantly changed strategic policy, in particular that in the approved Strategic Land Use Plan, the States is requested to rescind the previous Resolution of the States in December 2007 (Billet d’État XXV, 2007) which inferred that planning covenants would only be applied in limited circumstances in relation to affordable housing on sites already designated as HTAs. Although it could be argued that the resolution did not specifically limit the circumstances in which planning covenants to secure affordable housing would be applied as the States only “noted” the limited circumstances, it is considered that the limitation is clearly inferred when reading the resolution with the body of the 2007 report. Therefore, as clarity is important for all concerned, including landowners and developers, it is recommended that the Resolution is rescinded.

7. Consultation

- 7.1 The Department has consulted with other States Departments and stakeholders regarding the proposed changes to the Use Classes and Exemptions Ordinances. Particular consultations have been carried out with the Commerce and Employment Department and with commercial estate agents and other stakeholder groups dealing with commercial property, and with the Housing Department, the Health and Social Services Department, the Home Department, the Treasury and Resources Department and the Education Department in relation to matters falling within their respective mandates.
- 7.2 The Board of the Commerce and Employment Department has confirmed that it welcomes the proposed simplification of the current Use Classes Ordinance, which it states “has the potential to make it easier and more affordable for businesses to undertake development necessary for their commercial success”. The Commerce and Employment Department has provided its detailed comments and supports the proposals in relation to their effect on industry and commerce. The one minor query raised regarding the definition of agriculture is dealt with in

paragraph 4.9.1 above. A copy of the Commerce and Employment Department's response is included as **Appendix Two**.

- 7.3 The Housing Department is also supportive of the content and recommendations of this Policy Letter. In particular it notes that it is pleased by the clarification made by creating different use classes for “sheltered housing” and “specialised housing” which is consistent with the terminology the Housing Department uses. The Housing Department is also fully supportive of the proposal to recommend rescission of the December 2007 States Resolution, which implies that planning covenants for securing affordable housing can only be applied on HTAs. The Housing Department states that the rescission of this States Resolution adds clarity and limits ambiguity on the intended use of planning covenants going forward, which the Housing Department considers to be of real benefit.
- 7.4 The Education Department has confirmed that it can see no adverse effect on its operations arising from the proposals; indeed it comments that the proposed consolidation of the existing Public Amenity use classes 25-27 into a single Use Class may be beneficial in terms of future flexibility.
- 7.5 The Home Department has indicated its support for the proposed classification of nightclubs as a sui generis use, which reflects the current position in the United Kingdom regarding this use.
- 7.6 The Department also undertook public consultation on the proposals, which commenced on 17th August 2015 and ran for six weeks until 25th September 2015. A consultation paper and associated questionnaire were posted on the States website and email notifications were sent to a wide range of stakeholders including property professionals, organisations such as the Guernsey Chamber of Commerce, the Construction Industry Forum and the Parish Douzaines. Further publicity for the consultation was gained through media coverage in the Guernsey Press and on BBC Radio Guernsey.
- 7.7 There were seven responses to the public consultation. These were from the Guernsey Chamber of Commerce, the Construction Industry Forum and from five individuals. Overall, the Department's proposals were supported, with respondents generally agreeing that the proposed changes will simplify the Use Classes Ordinance and will help make its operation more flexible, and that the proposed changes will benefit the economy of Guernsey without causing harm to the amenity or environment of the Island. The Guernsey Chamber of Commerce specifically stated that the “simplification and flexibility being introduced to Industrial and Storage/Distribution Use Classes is very much welcomed”. Before going on to make other specific points, an individual respondent stated: “As a general comment, I thoroughly support all initiatives to reduce the number of use classes...” Two respondents considered that the changes to the existing Ordinance were overdue. The proposal for changes to the sheltered housing use class to remove the minimum age limit was also supported, with a respondent agreeing that the age of residents within sheltered housing schemes is “probably more of a practical management issue than a planning one.”

7.8 In summary, three main issues came to the fore out of the consultation.

- (i) Two respondents suggested that two present categories of offices, relating respectively to those catering for visiting members of the public and to administrative offices not providing such a service could be usefully combined into a single Use Class. Whilst appreciating the point made, the Department believes that the current distinction provides benefits when determining applications for planning permission in accordance with adopted planning policy, particularly in relation to office uses within the main retail areas where an office providing a service to visiting members of the public may contribute to the vitality and viability of the area in a way that a different type of administrative office may not.
- (ii) Three respondents suggested that low-value storage uses should be made subject of a separate Use Class to protect against the loss of sites to higher value uses. Similar arguments were raised immediately prior to the last amendment of the Use Classes Ordinance in 2007 and it was accepted at that time that the Planning Use Classes could not have an effective role in “ring fencing” sites for uses which are defined more by the ability or willingness of their operators to pay the market rate for land than by their identifiable physical characteristics. Indeed it should be noted that a separate use class existed prior to 2007 for storage of building materials, however this clearly did not provide the benefits being sought.

Insofar as the matters raised by these respondents are matters that can legitimately be considered within the Land Use Planning system, they are addressed through planning policy. Under the current Urban Area Plan and Rural Area Plan and in the draft Island Development Plan a range of opportunities are identified for development of small workshops and open yards suitable for this type of small-scale storage or industrial use, including on suitable redundant horticultural sites. Research carried out in preparation of the Island Development Plan reveals a current significant oversupply of storage premises which is projected to continue. The Commerce and Employment Department supports the proposed changes to the Use Classes Ordinance which will increase flexibility for change of use of storage and industrial premises enabling such uses to be provided more easily in appropriate circumstances without the need for planning permission.

- (iii) Two respondents have queried the definitions proposed within the Use Classes Ordinance, particularly in relation to specialised housing, and question whether these are consistent with the Strategic Land Use Plan and the draft Island Development Plan.

The proposals put forward for changes to the residential use classes reflect the outcome of careful consideration and close consultation with, in particular, the Housing Department and the Health and Social Services Department. It is acknowledged that thinking regarding housing definitions has developed since 2011 when the Strategic Land Use Plan was approved by the States, partly through an iterative process resulting from the drafting of detailed land use policies within the draft Island Development Plan as directed by the Strategic Land Use Plan and through the work undertaken to review the Use Classes Ordinance. As part of this process, some detailed definitions within the draft Island Development Plan have been amended to reflect the proposals contained within this

Policy Letter. Consequently, although proposals relating to planning legislation and planning policy have by their nature to be considered separately, the Department can confirm that the proposals relating to the housing use classes as set out within this Policy Letter are consistent with the definitions used within the draft Island Development Plan and the proposed amendments published in September 2015, and are also consistent with those used by the Housing Department which supports this Policy Letter.

- 7.9 In addition to these main issues relating to the Use Classes Ordinance, a number of respondents made comments relating to the policy approach of the draft Island Development Plan, whilst some raised more general queries. None of these issues would have an impact on the proposals recommended for approval by the States within this Policy Letter.

8. Environmental Implications

- 8.1 There are no significant environmental implications arising from this Policy Letter. Although the proposals will involve grouping an increased range of activities together in some use classes, allowing changes of use to take place without the requirement for planning permission within the resulting broader use classes, this is proposed on the basis that the impacts of those activities on amenity and the environment will be similar. The proposed additional permitted changes between use classes will have no significant environmental impacts. The proposals include adding some additional activities to the list of sui generis uses enabling their potential impacts to be considered on a case by case basis through the planning process.

9. Legislative Implications and Consultation

- 9.1 It is estimated that four weeks of drafting time would be required to amend both the Use Classes and Exemptions Ordinance and to make any necessary consequential amendments to other legislation as proposed in this Policy Letter. The Law Officers have been consulted and their comments taken into account in this Policy Letter.

10. Human Rights Compliance

- 10.1 There are no identified human rights implications arising from this Policy Letter.

11. Costs/Resources

- 11.1 The proposed reduction in the number of use classes and additional permitted changes of use between use classes in defined circumstances are expected to reduce the number of planning applications for change of use submitted to the Department and will therefore have an impact on the fee income generated by such applications. However, applications for change of use constitute a relatively small proportion of the overall number of planning applications received. In 2014, 76 applications for change of use were received, amounting to less than 4% of the total of 1,919 planning applications received in that year. The reduction in fee income arising from the current proposals is therefore unlikely to be significant and will be accommodated within the Department's normal budget allocation.

12. **Conclusions**

- 12.1 The proposed amendments to the Use Classes Ordinance and to the Exemptions Ordinance will result in a significant simplification of the current provisions and a consequent reduction in the requirement for planning applications to be made for certain changes of use. It is anticipated that in particular this will improve the operation of the commercial market for industrial and storage/distribution premises and will have consequent economic benefits for the Island, without any significant adverse impacts on amenity or the environment. The proposals also reflect changed circumstances and the development of new policy approaches in the Strategic Land Use Plan particularly in relation to certain housing and retail uses and to securing affordable housing contributions more widely through the use of planning covenants.

13. **Recommendation**

The Environment Department recommends the States to:

- (a) approve the proposed amendments to reduce the number of use classes in the Land Planning and Development (Use Classes) Ordinance, 2007 and to increase the number of change of use exemptions in the Land Planning and Development (Exemptions) Ordinance, 2007 and any necessary consequential amendments to other legislation as set out in this Policy Letter, and
- (b) rescind their Resolution of the 12th December, 2007 of Billet d'État No. XXV of 2007, Article III, paragraph 1 noting "the limited circumstances in which planning covenants will be used as set out in that report", and
- (c) direct the preparation of such legislation as may be necessary to give effect to their above decisions.

Yours faithfully

Y Burford, Minister

B L Brehaut, Deputy Minister
J A B Gollop
P A Harwood
E G Bebb

Appendix One

Summary of proposed amendments to the Use Classes Ordinance

Proposed new Use Class (No. and brief description)	Equivalent Use Class in 2007 Use Classes Ordinance	Proposed permitted changes between proposed use classes (from/to)
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Residential

Residential use class 1: Dwelling houses	Residential use class 1	From 5
Residential use class 2: Flats	Residential use class 2	From 5
Residential use class 3: Sheltered housing	Residential use class 3	
Residential use class 4: Specialised housing	Part of Residential use class 8	
Residential use class 5: Use of part of dwelling for business purposes	Residential use class 4	To 1 and 2
Residential use class 6: Premises in multiple occupation	Residential use classes 5 and 6	
	Residential use classes 7, 8 and 9 are not replaced	

Visitor economy

Visitor economy use class 7: Serviced visitor accommodation	Visitor economy use classes 10 and 11	
Visitor economy use class 8: Non-serviced visitor accommodation	Visitor economy use class 12	
	Visitor economy use class 13 is not replaced	

Retail

Retail use class 9: Convenience retail	Part of Retail use class 14	
Retail use class 10: General retail	Part of Retail use class 14 and Retail use classes 17 and 20	
Retail use class 11: Food and drink	Retail use class 15	
Retail use class 12: Hot food take-away	Retail use class 16	
Retail use class 13: Plant centre	Retail use class 18	
Retail use class 14: Garden centre	Retail use class 19	

Administrative, financial and professional services

Administrative, financial and professional services use class 15: Financial, professional and support services	Administrative, financial and professional services use class 21	
Administrative, financial and professional services use class 16: Administrative office	Administrative, financial and professional services use class 22	To 17 (as existing)
Administrative, financial and professional services use class 17: Temporary office	Administrative, financial and professional services use class 23	From 16 (as existing)

Public amenity

Public amenity use class 18: Non-residential health/welfare services	Public amenity use class 24	
Public amenity use class 19: Non-residential establishments	Public amenity use classes 25, 26 and 27	
Public amenity use class 20: Assembly/leisure	Public amenity use class 28	
Public amenity use class 21: Sport/fitness	Public amenity use class 29	

Storage/distribution

Storage/distribution use class 22: General storage/distribution	Storage/distribution use classes 30, 31, 32, 33, 34 and 35	To and from 24 for premises not exceeding 250 square metres; From 25 for premises not exceeding 250 square metres
Storage/distribution use class 23: Special storage	Storage/distribution use class 36	

Industry

Industry use class 24: Light industry	Industry use class 37	To and from 22 for premises not exceeding 250 square metres; From 25 and 26 (no size restriction) (as existing)
Industry use class 25: General industry	Industry use classes 38 and 39	To 22 for premises not exceeding 250 square metres; To 24 (no size restriction) (as existing); From 26 (no size restriction) (as existing)
Industry use class 26: Special industry	Industry use classes 40, 41 and 43 (plus a sui generis use)	To 24 and 25 (no size restriction) (as existing)
Industry use class 27: Waste	Industry use class 42	

Agriculture

Agriculture use class 28: Agriculture	Agriculture use class 44	
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Listed 'sui generis' uses

Added:	Deleted:
Tattoo parlours (added to clarify sui generis status distinct from a retail use)	Abattoir/knacker's yard (included in use class 26 special industry)
Campsite (added to clarify sui generis status as use of open land)	
Nightclub (added due to particular characteristics and potential amenity impacts)	
Composting (added as materially different to uses within use class 27 Waste)	
"Solar farms" (added to clarify sui generis status as use of land)	

Appendix Two


COMMERCE AND EMPLOYMENT
 A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Our Ref:
 Your Ref:

Deputy Y Burford
 Minister
 Environment Department
 Sir Charles Frossard House
 La Charroterie
 St Peter Port
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24 September 2015

Commerce and Employment
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Dear Minister,

The Environment Department's Draft Policy Letter concerning the Review of the Land Planning and Development (Use Classes) Ordinance, 2007.

Further to your letter of 21 August 2015, I would like to thank you for inviting the Commerce and Employment Department to comment on the Environment Department's draft Policy Letter concerning the Review of the Land Planning and Development (Use Classes) Ordinance, 2007.

Making Guernsey work for businesses and helping businesses to get the best from Guernsey is one of the four key objectives of the Commerce and Employment Department, as set out in the Strategic Framework for Economic Development, and, as a matter of principle, the Department supports efforts by government to remove unnecessary barriers to doing business on the Island. My Board, which at its meeting today considered the draft Policy Letter, therefore welcomes the simplification of the current Use Classes Ordinance, which has the potential to make it easier and more affordable for businesses to undertake development necessary for their commercial success.

My Department has evaluated the proposals in the draft Policy Letter against the effect on industry and commerce, and this analysis forms the substance of the Department's detailed response, which is presented in two tables, enclosed with this letter. The first table concerns the proposed amendments to the Use Classes Ordinance; the second table concerns the proposals relating to permitted changes between use classes. In both cases, the Department has restricted itself to commenting only on the proposals relevant to its mandated areas of responsibility.

I trust the Department's comments and queries are self-explanatory and of assistance to you.

Yours sincerely

Kevin A Stewart
 Minister

Enc.

COMMERCE AND EMPLOYMENT DEPARTMENT
REVIEW OF THE LAND PLANNING AND DEVELOPMENT (USE CLASSES) ORDINANCE, 2007

CONSULTATION RESPONSE

TABLE 1: Proposed amendments to the Use Classes Ordinance (relevant to C&E)			
Section	Use Class(es)	Environment Department proposal	C&E analysis
4.3.2	Administrative financial and professional services; Retail; and Industrial	Publish guidance on when use of a dwelling for business purposes would require planning permission.	<p>The most recent statistics on home working in Guernsey available to the Department are in the 2009 Workforce Participation Survey, which found that 7,650 employees in Guernsey worked from home. This figure may be unusually high, however, as the question was about employers' flexible working practices, and the results could have included people working on an ad hoc flexible basis (e.g. an occasional morning) as well as on a permanent basis.</p> <p>In the United Kingdom, in June 2014, the Office of National Statistics reported the highest rate of home working since comparable records began in 1998, with 4.2 million home workers in January-March 2014, or 13.9% of those in work. This suggests a national trend towards home working, and it is not unreasonable to suggest that similar trends may be seen in Guernsey. Working from home provides affordable opportunities for people looking to establish start-up businesses, particularly in the digital sector, which is a low physical footprint industry, and therefore the Department should support proposals which make it easier for such businesses to operate in Guernsey.</p> <p>The Environment Department's proposals bring greater clarity to the options open to people wishing to work from home.</p> <p>The Department therefore supports the proposal.</p>
4.4.1	Visitor Economy	Amalgamate into a single use class entitled 'Serviced Visitor Accommodation', the current two separate use classes relating to guesthouses/private hotels and hotels (current use classes 10 and 11). This would include Hotels, Guest Accommodation, Serviced Apartments and other minor	<p>The Marketing and Tourism Unit has confirmed that it is content with this proposal.</p> <p>The title 'Serviced Visitor Accommodation' and basis of the definition provided in the draft Policy Letter are based on the Marketing and Tourism Unit's staff-level feedback.</p>

		classifications where there is guest services required by quality rating standard and Boarding Permit.	
4.4.2	Visitor Economy	Retain the use class relating to 'Non-Serviced Visitor Accommodation', this being principally self-catering accommodation but including hostels and group accommodation. Recognise that winter lets may take place without prior planning permission from 01 November to 31 March each year.	The Marketing and Tourism Unit has confirmed that it is content with this proposal.
4.4.3	Visitor Economy	Do not replace the existing use class relating to "visitor attractions" within the new Use Classes Ordinance.	<p>The Marketing and Tourism Unit has confirmed that it is content with this proposal.</p> <p>The Environment Department has previously explained to C&E that the rationale for this approach is that it can be very difficult in practice to define a 'visitor attraction', and in that because such attractions cannot exist without local support, and therefore would not be exclusively for visitors, it would be better, in land planning terms, to define attractions according to the main use/ offering of these sites. The Environment Department also advised that the policies of the future IDP will be flexible enough to support appropriate uses and the change to the use classes will support this approach.</p> <p>The inclusion of the explanatory text in the Policy Letter was made at the request of C&E (at officer-level) and explains the rationale behind the Environment Department's proposal so that existing and potential operators do not feel that they have been overlooked or excluded from the planning process.</p>
4.5.1 to 4.5.3	Retail	<p>Create new use classes relating to 'Convenience retail' and 'General retail'.</p> <p>Convenience retail would include only the sale of, often essential, daily items.</p> <p>General retail would include all the trades or businesses currently within the definition of "retail trade or business" in the current (2007) Use Classes Ordinance, subject to the exclusion of convenience retail.</p>	<p>Strategy Proposal 10 of C&E's Retail Strategy specifically proposed that the Environment Department should include 'convenience retail' and 'comparison retail' as distinct Use Classes. The proposed creation of the new Use Class relating to Convenience Retail would appear to fulfil the requirement Strategy Proposal 10 relating to convenience retail.</p> <p>The proposed creation of the new Use Class relating to 'General Retail', which would exclude convenience retail and include comparison retail, would also appear to fulfil the requirement of</p>

			<p>Strategy Proposal 10 of the Retail Strategy relating to the need to establish a separate Use Class for comparison retail (i.e. 'General retail').</p> <p>The distinction between 'Convenience' and 'General' retail should enable the Environment Department to limit the development of new comparison retail to the Main Centres of Town and the Bridge, in line with the principles of the Retail Strategy, whilst also supporting the development of convenience retail outside of these centres.</p> <p>The Environment Department's proposals to establish new retail use classes for convenience and general (i.e. comparison) retail should better enable the Environment Department to make planning decisions that accord with C&E's policies on retail, as presented in the Retail Strategy.</p> <p>The Department therefore supports these proposals.</p>
4.7.1	Storage/ Distribution	Amalgamate into a single use class relating to General Storage/Distribution the current six separate use classes described in section 4.7.1.	<p>The proposal makes it easier for businesses to move between the various (current) Storage/Distribution uses, without the need to seek planning permission. The proposed simplification of the Ordinance should enable businesses to adapt to market demands within their sector more quickly and without incurring the costs involved in applying for change of use.</p> <p>The Department therefore supports the proposal.</p>
4.8.1	Industrial	Include within the General Industrial Use Class commercial laundries, which are currently in a separate industrial use class.	No comment.
4.8.2	Industrial	Amalgamate into one Special Industry Use Class the current three separate use classes described in section 4.8.2.	<p>The proposed simplification of the Ordinance should make it easier for businesses carrying out the special industrial activities described in section 4.8.2., to adapt to market demands within their sector more quickly and without incurring the costs involved in applying for change of use.</p> <p>The Department therefore supports the proposal.</p>
4.8.4.	Industrial	Replace with a new 'Waste' use class the existing use class (42) relating to	No comment.

		the sorting, treatment, bailing, disposal or transfer of putrescible or inert waste	
4.9	Agricultural	The use class relating to agricultural land, including horticultural or forestry use (current use class 44) would remain. Agriculture would be defined to be consistent with section 45A of the 2005 Land Planning and Development Law and includes <i>"land which is covered by a glasshouse and land which was covered by a glasshouse and which is used, or, with the application of good husbandry, is capable of being used, for dairy farming, the production, rearing or maintenance of livestock, or market gardening or the outdoor cultivation of flowers, bulbs or nursery stock"</i> .	The Department would query the omission of poultry and arable farming from the proposed definition of 'agriculture'.
4.10	Sui generis	Add 'solar farms' to the list of sui generis uses.	<p>The Environment Department has separately advised that the proposed sui generis designation would ensure that a solar farm is recognised as being distinct from agriculture, whilst on the other it would clarify that it is not, for example, an industrial use (which it is what it would currently be regarded as in legal/policy terms) and a proposal would therefore not necessarily have to meet the specific policy tests for industry which may in practice be difficult to relate directly to such a development. In essence, having solar farms as sui generis would underpin more of an on-merits assessment of any proposal, and avoid a proposal being artificially and potentially unhelpfully related to some other category of use. It would thus support the approach of the IDP relating to renewable energy.</p> <p>This being the case, C&E supports the proposal.</p>
4.10.1	Sui generis	Amend the list of sui generis uses to delete use as an abattoir/knacker's yard, as it would be included within the new Special Industry use class.	No comment.
4.10.1	Sui generis	Amend the list of sui generis uses to add: composting, nightclubs, campsites, and tattoo parlours.	No comment.

TABLE 2: Proposals relating to permitted changes between use classes (relevant to C&E)			
Section	Use Class(es)	Environment Department proposal	C&E analysis
5.2; and 5.3	Industrial	Retain the current permitted changes relating to Industrial change of use, as described in section 5.2 (i) of the draft Policy Letter.	This approach represents the continuation of the present approach to changes within the Industrial use class, which the Department supports.
5.2; and 5.3	Administrative , financial and professional	Retain the current permitted changes relating to Administrative, financial and professional change of use, as described in section 5.2 (ii) of the draft Policy Letter.	This approach represents the continuation of the present approach to changes within the Administrative, financial and professional use class, which the Department supports.
5.4	Industrial (and Storage/ Distribution)	Introduce new permitted changes between light industry and general storage use for premises up to 250 square meters, and from general industry to general storage use for premises up to 250 square meters.	<p>In May 2015, C&E interviewed commercial property agents and users of industrial-type premises as part of its research on the affordability of commercial premises. The perception amongst those interviewed was that the need to apply for planning permission to move between use classes of a similar nature, is a barrier to economic activity and growth.</p> <p>The Department is also mindful that the most recent Employment Land Monitoring Report published by the Environment Department (for the period July 2013 to December 2013) reported that at the end of 2013, there was an oversupply of storage premises but a tighter marketplace for industrial premises. This suggests that there is a potential for demand for industrial premises to be met through the reclassification or redevelopment of existing vacant or underused storage premises, of which there is an oversupply.</p> <p>Making it easier for developers to move between storage/distribution and industrial uses classes may encourage the reuse of vacant or underused storage premises to provide accommodation for lower-value economic activities of an industrial nature, requiring low-cost industrial premises.</p> <p>C&E, at officer-level, queried with the Environment Department whether it would be appropriate to consider adding some restrictions in respect of change from general/special industrial use at the Longue Hougue/Bulwer Avenue Key Industrial Area ("KIA"), which is to be designated a priority area for general/special industrial uses. The Environment Department confirmed that the Longue Hougue KIA is to be reserved for</p>

			<p>heavy and specialist industrial development. Environment added that if necessary, exemption rights for permitted changes could be withdrawn by condition of a planning permission, and therefore a different approach in the Use Classes Ordinance would not be required.</p> <p>This being the case, the Department supports the proposal.</p>
5.6	Retail	<p>The current exemptions for retail change of use (described in section 5.2 (ii) of the draft Policy Letter) would not be retained under these proposals as they are not compatible with the changes proposed under the retail use classes (see table 1, above, and section 4.5.1. to 4.5.3 of the draft Policy Letter).</p>	<p>The purpose of introducing distinct Convenience Retail and General Retail use classes is to safeguard the main retail areas of Town and the Bridge, in accordance with the Retail Strategy. The proposal not to retain the current exemptions for retail use therefore accords with the objectives of the Retail Strategy.</p> <p>The Department supports the proposal.</p>

(N.B. The Treasury and Resources Department notes the benefits of the proposals to reduce the number of use classes expressed in the Policy Letter and that as a result of the proposed changes there will be a reduction of income which will be ‘accommodated within the Environment Department’s normal budget allocation’. It is therefore expected that should the income reduction be higher than anticipated that there would then be a prioritised reallocation of existing resources so as to fully mitigate this impact within the Environment Department’s Cash Limit.)

(N.B. The Policy Council notes that the Environment Department is seeking States support for proposals to simplify the Use Classes Ordinance, reducing the number of use classes from 44 to 28. The Policy Council welcomes this streamlined review of the use classes and is of the opinion that this will ensure that current policy objectives set by the States can be delivered through the planning system.

It is noted that the Policy Letter also addresses the issue of covenants, clarifying their potential use beyond the soon to be obsolete Housing Target Areas. The Policy Council considers this to be good housekeeping and will ensure that the use classes remain consistent with the latest States policy, as set out within the Strategic Land Use Plan and the draft Island Development Plan.

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 27th October, 2015, of the Environment Department, they are of the opinion:-

1. To approve the proposed amendments to reduce the number of use classes in the Land Planning and Development (Use Classes) Ordinance, 2007 and to increase the number of change of use exemptions in the Land Planning and Development (Exemptions) Ordinance, 2007 and any necessary consequential amendments to other legislation as set out in that Policy Letter.
2. To rescind their Resolution of the 12th December, 2007 of Billet d’État No. XXV of 2007, Article III, paragraph 1 noting "*the limited circumstances in which planning covenants will be used as set out in that report*".
3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

ENVIRONMENT DEPARTMENT

EXTENSION OF THE LOCAL PLANNING BRIEFS FOR LE BOUET AND GLATEGNY ESPLANADE MIXED USE REDEVELOPMENT AREAS

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

13th October 2015

Dear Sir

Executive Summary

- 1.1 On 27th February 2013 (Billet d'État No IV of 2013), the States agreed to proposals to reinstate Le Bouet and Gategny Esplanade Outline Planning Briefs ("OPBs")/deemed Local Planning Briefs ("LPBs") for a period of 3 years subject to further extension by resolution of the States. At the same time, the States also approved the enacting of a Project de Loi entitled the Land Planning and Development (Local Planning Briefs) (Guernsey) Law, 2013 as the best way of reviving the intended policy on a legally sound basis without causing undue delay. Reinstatement of these OPBs was required because their expiry by operation of the planning legislation had created a policy vacuum which was at that time delaying the determination of a major planning application relating to part of the Admiral Park site which lies within Le Bouet Mixed Use Redevelopment Area ("MURA").
- 1.2 The Land Planning and Development (Local Planning Briefs) (Guernsey) Law, 2013, as approved by the States on 27th February 2013, came into force on 22nd April 2013 and provided for the above LPBs to have effect until 21st April, 2016 unless further extended by resolution of the States under section 1(3) of the 2013 Law within that 3 year period.
- 1.3 The States resolved on 31st July 2015 (Billet d'État No XIV of 2015) to extend the period of validity of the current Urban Area Plan and Rural Area Plan to 2nd December 2016 to allow for completion of the public inquiry into the draft Island Development Plan, receipt of the Inspector's Report and subsequent consideration of recommendations and approval by the States.
- 1.4 Should the Local Planning Briefs for Le Bouet and Gategny Esplanade MURAs expire prior to the adoption by the States of the Island Development Plan, this would re-introduce a policy vacuum in that a number of key policies in the Urban

Area Plan cross-refer, in relation to development of MURAs, to detailed policy in the Local Planning Briefs so that it would be difficult to apply the policies as intended without reference to detailed policy in the LPBs.

- 1.5 The purpose of this policy letter is to request the extension of the period of validity of Le Bouet and Gategny Esplanade Local Planning Briefs to the **2nd December, 2017**. This additional period would ensure that there is no gap in planning policy for the MURAs pending adoption of the Island Development Plan (IDP).

Background

- 2.1 The current Urban Area Plan, approved in 2002, designates three MURAs, at Gategny Esplanade, Le Bouet and Leale's Yard. The States approved OPBs for the Bouet and Gategny Esplanade MURAs in 1998 and 1999 respectively following public planning inquiries relating to the briefs (Billet d'État No XVIII of 1998 p 943 and Billet d'État No VII of 1999, p 209). The OPBs contained site specific guidance to achieve a co-ordinated approach to development on the whole of the relevant MURA.
- 2.2 The Land Planning and Development (Guernsey) Law, 2005 (section 7(2) and Part II of Schedule 1) and the Land Planning and Development (Plans) Ordinance, 2007 (section 19) contain transitional provisions deeming listed OPBs, to be LPBs under that Law. LPBs are statutory development plans, the examination and adoption of which is subject to a full inquiry process, relating to a particular locality; they carry forward the function of OPBs but on a statutory basis. Under section 12(1) of the 2005 Law there is a duty on the States by Ordinance to "make such provision as they consider appropriate in connection with the. . . duration and revision of . . . Local Planning Briefs". Such provision was made in sections 13 and 14 of the Land Planning and Development (Plans) Ordinance, 2007. Section 13 specifies that a LPB has effect for 10 years from its date of adoption by the States subject to extension of that period at any time by resolution of the States in which case it shall have effect until the date specified in that resolution. Section 14 requires that a LPB must be reviewed at least once every 10 years.
- 2.3 The original policy intention, as reflected in the wording of the Urban Area Plan, was for the OPBs to continue in effect during the life of the Urban Area Plan where cross-referenced in any Plan policy. The 2005 Law and the 2007 Plans Ordinance came into force in April, 2009. An unintended consequence of the delayed coming into force of the legislation was that the Bouet and Gategny Esplanade OPBs expired on the coming into force of the Plans Ordinance as they were adopted by the States in 1998 and 1999 and had not been extended by resolution of the States or reviewed in the meantime.
- 2.4 On 27th February 2013 (Billet d'État No IV of 2013), the States agreed to proposals to reinstate Le Bouet and Gategny Esplanade OPBs/deemed LPBs for a period of 3 years subject to further extension by resolution of the States. At the same time, the States also approved the enacting of a Project de Loi entitled the

Land Planning and Development (Local Planning Briefs) (Guernsey) Law, 2013 as the best way of reviving the intended policy on a legally sound basis without causing undue delay. Reinstatement of these OPBs was required because their expiry by operation of the planning legislation had created a policy vacuum which was at that time delaying the determination of a major planning application relating to part of the Admiral Park site which lies within the Bouet MURA.

- 2.5 The Land Planning and Development (Local Planning Briefs) (Guernsey) Law, 2013, as approved by the States on 27th February 2013, came into force on 22nd April 2013. Section 1(3) of the 2013 Law specifies that the reinstated LPBs shall have effect for a period of 3 years beginning on the day the Law comes into force, unless the States resolve within that 3 year period to further extend a deemed Local Planning Brief in which case the deemed Brief in question shall have effect until the date specified in that resolution. The LPBs for Le Bouet and Gategny Esplanade MURAs therefore will have effect until 21st April, 2016 unless further extended by resolution of the States under section 1(3) of the 2013 Law within that 3 year period.

Leale's Yard MURA Local Planning Brief Extension

- 3.1 On 12th November 2014 (Billet d'État No XXI of 2014), the States resolved to approve the extension of the LPB for the Leale's Yard MURA for a period of three years, with effect from 24th November 2014, subject to the States being able to further extend the LPB by further resolution within this period, if required, in order to ensure that the Brief remains in force to provide the detailed policy framework for the development of the MURAs as intended in the Urban Area Plan pending adoption of the new Island Development Plan.

Admiral Park Planning Applications

- 4.1 Most of Le Bouet and Gategny Esplanade MURAs have now been redeveloped having regard to the policy in the relevant OPB. However, one significant site remains at Admiral Park in respect of which planning proposals have been before the Department for major mixed use office, retail, residential and leisure development. The Urban Area Plan cross-refers to the policy contained in the LPBs for the MURAs in a number of key policies. The original intention stated in the current revision of the Urban Area Plan was for the Briefs to remain valid during the life of the Urban Area Plan.
- 4.2 Following the reinstatement of the LPB for Le Bouet MURA on 22nd April 2013, outline planning permission was granted on 16th July 2013 for the erection of residential, office, retail, hotel and leisure facilities at various sites within Admiral Park off Elizabeth Avenue. That application had earlier been deferred from consideration by the Environment Board in the light of its then conclusion that the OPB for the Bouet MURA had expired.

4.3 That outline permission was granted on 16th July 2013 subject, inter alia, to the following conditions:

1. *No development shall commence on site until details of the siting, design and external appearance of the proposed building[s], and the landscaping of the site (hereinafter called 'the reserved matters') have been submitted to and approved in writing by the Environment Department and the development shall thereafter be carried out as approved.*

Reason - *To ensure, as an outline permission is being granted, that development may not begin until all the matters reserved for subsequent approval have been approved by the Environment Department.*

2. *Application for approval of the reserved matters shall be made to the Environment Department before the expiration of two years from the date of grant of this permission and the development hereby permitted shall be begun before the expiration of three years from the date of grant of this permission.*

Reason - *This condition reflects section 18(1) of the Land Planning and Development (Guernsey) Law, 2005 which states that planning permission ceases to have effect unless development is commenced within 3 years of the date of grant (or such shorter period as may be specified in the permission).*

4.4 No application was made for the approval of reserved matters pursuant to that outline planning permission within the period of two years from the date of grant of that permission in accordance with condition 2. A further outline planning application for the same description of development, the same sites and the same applicant was however submitted and this application was received as valid by the Department on 7th July 2015 and was approved by the Environment Board at an Open Planning Meeting held on 15th September 2015 subject to the same conditions as before including that relating to the submission of application for approval of the reserved matters before the expiration of two years from the date of grant of this permission.

Development Plan Review

5.1 On the 16th February 2015, the Environment Department published the draft IDP. If adopted by the States, the IDP will replace the Urban and Rural Area Plans as the principal policy document for determining how and where development can take place in Guernsey. The draft IDP has been prepared so as to be consistent with the current Strategic Land Use Plan (“SLUP”) and has been certified by the Strategic Land Planning Group as consistent with the SLUP in accordance with section 5 of the Land Planning and Development (Plans) Ordinance, 2007.

- 5.2 Publication of the draft IDP was delayed by approximately five months from a previously estimated publication date. This delay was caused partly because the Department was unable to recruit suitably qualified and experienced personnel on a temporary basis to assist its staff in preparing the draft IDP, and partly because of the extensive consultation which the Department carried out on the draft IDP, which included two rounds of full public consultation.
- 5.3 The Public Inquiry for the draft IDP is presently being held. The Public Inquiry process is split into three separate and distinct stages:
- ***Initial Representations*** – an opportunity for comments to be made on the policies in the draft IDP and the related Environmental Statement during eight weeks from 16th February 2015 to 13th April 2015.
 - ***Further Representations*** – an opportunity for comments to be made on the representations made during the Initial Representations stage during a six week period from 15th June 2015 to 24th July 2015.
 - ***Inquiry Hearings*** – a series of public hearings where the Planning Inspectors will take evidence on the issues raised during both the Initial and Further Representations stages. The start of the inquiry hearing stage was on Tuesday 6th October 2015.
- 5.4 It is estimated that the Planning Inspectors' report is likely to be available by the end of February 2016.
- 5.5 The States resolved on 31st July 2015 (Billet d'État No XIV of 2015) to extend the period of validity of the current Urban Area Plan and Rural Area Plan to 2nd December 2016 to allow for completion of the public inquiry into the draft Island Development Plan, receipt of the Inspector's Report and subsequent consideration of recommendations and approval by the States.

Further Review of Le Bouet and Gategny Esplanade LPBs

- 5.6 Section 1(4) of the Land Planning and Development (Local Planning Briefs) (Guernsey) Law, 2013 states that:

“During the 3 year period specified in subsection (3), despite section 14 of the Plans Ordinance, the deemed Local Planning Briefs referred to in subsection (1) need not be reviewed but if a brief is further extended by resolution of the States under subsection (3) that brief must be reviewed, in accordance with section 14 of the Plans Ordinance, as soon as reasonably possible after the date of the States resolution in question.”

- 5.7 Section 2 of the 2013 Law states that:

“Notwithstanding section 13 of the Plans Ordinance or section 1 of this Law, where a Development Plan is replaced or amended under the Principal Law so as to omit all references in the policies in the

Development Plan to an outline planning brief which is a deemed Local Planning Brief by virtue of -

- (a) section 7(2) of the Principal Law, or*
- (b) section 19 of the Plans Ordinance,*

that Local Planning Brief shall cease to have effect from the date of the adoption by the States of the replacement Development Plan or the amendments, as the case may be.”

- 5.8 As Le Bouet and Gategny Esplanade LPBs are not referred to in the draft IDP it is anticipated that they will cease to have effect on adoption of that IDP by the States in 2016. However, should the IDP not be adopted as anticipated or other relevant circumstances change, and subject to the LPBs being extended as recommended in this Policy Letter, the Environment Department will proceed to review Le Bouet and Gategny Esplanade LPBs during 2016 in accordance with the requirements of section 1(4) of the 2013 Law.

Environmental Implications

- 6.1 There are no direct environmental implications arising from this report, but the extended validity of Le Bouet and Gategny Esplanade LPBs will provide a continuing planning policy framework for determining planning applications in the Le Bouet and Gategny Esplanade MURAs in an environmentally sustainable manner, pending States consideration of the IDP.

Legislative Implications and Consultation

- 7.1 There is no requirement for new legislation as the legislation allows for the effective period of a LPB to be extended by resolution of the States. The Law Officers have been consulted and their comments taken into account in this Policy Letter.

Human Rights Compliance

- 8.1 There are no identified human rights implications arising from this Policy Letter.

Costs/Resources

- 9.1 There are no identified financial or resource management implications arising from this Policy Letter.

Conclusion

- 10.1 Should the Local Planning Briefs for Le Bouet and Gategny Esplanade MURAs expire prior to the adoption by the States of the IDP, this would re-introduce a policy vacuum in that a number of key policies in the Urban Area Plan cross-refer,

in relation to development of MURAs, to detailed policy in the LPBs so that it would be difficult to apply the policies as intended without reference to detailed policy in the LPBs.

- 10.2 The States is consequently requested to extend the period of validity of Le Bouet and Gategny Esplanade LPBs to the **2nd December, 2017** to ensure that there is no gap in planning policy for the Mixed Use Redevelopment Areas pending adoption of the IDP. This longer period of extension relative to the extended period of validity of the current Urban and Rural Area Plans as approved by the States is because section 1(3) of the Land Planning and Development (Local Planning Briefs) (Guernsey) Law, 2013 is more restrictively worded than section 13 of the Land Planning and Development (Plans) Ordinance, 2007, in that the resolution to extend can only be made within the original three year period, expiring on 21st April, 2016. The longer period of extension proposed is therefore considered prudent in case there is unforeseen delay to adoption of the IDP.

Recommendation

- 11.1 The Environment Department recommends the States to extend the period of validity of Le Bouet and Gategny Esplanade Local Planning Briefs until the **2nd December, 2017** subject to any earlier expiry in accordance with section 2 of the Land Planning and Development (Local Planning Briefs) (Guernsey) Law, 2013.

Yours faithfully

Y Burford
Minister

B L Brehaut
Minister

J A B Gollop
P A Harwood
E G Bebb

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

(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 13th October, 2015, of the Environment Department, they are of the opinion to extend the period of validity of Le Bouet and Gategny Esplanade Local Planning Briefs until the 2nd December, 2017, subject to any earlier expiry in accordance with section 2 of the Land Planning and Development (Local Planning Briefs) (Guernsey) Law, 2013.

HOME DEPARTMENT

AMENDMENTS TO THE OFFENCES (FIXED PENALTIES) LAW, 2009 – PARKING ON HOSPITAL GROUNDS

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
GY1 1FH

9th November 2015

Dear Sir

1. EXECUTIVE SUMMARY

- 1.1 Over recent years, public areas administered by the Health and Social Services Department, and in particular, the Princess Elizabeth Hospital have experienced increasing complications with the control of vehicular traffic within the grounds including careless and inconsiderate parking, leading to disruption, frustration and increased difficulties and risk to those using and visiting the various sites.
- 1.2 In order to assist the Health and Social Services Department ("HSSD") in responding to this problem, the Home Department ("the Department") recommends that the Schedule to the Offences (Fixed Penalties) (Guernsey) Law, 2009 ("the Law") be amended so as to include the offences contained under section 4 of The Vehicular Traffic (Hospitals, etc.) Ordinance, 1985.

2. BACKGROUND

- 2.1 The States first approved the principle of using fixed penalty notices for certain traffic offences in 1969 on the basis that the use of fixed penalties had the potential to save both Police and Court time. The scheme provides an alleged offender with opportunity to pay a fine in advance of Court proceedings, thus avoiding a Court appearance and potentially a recorded conviction. Disputed cases are still dealt with by the Court. The scheme offers a financial deterrent for further offending and reduces expensive Court time.
- 2.2 In October 2006, following a review of the existing scheme by the Department in consultation with the Police and the Law Officers of the Crown, the Department presented to the States a comprehensive report with a range of proposals to expand the scheme to incorporate a greater range of offences for which a notice could be issued, along with adjusting the level of penalties according to the type of offence and introducing a reduced penalty for early payment (*Billet d'État XVII 2006*). These proposals were approved and were introduced through the Law which came into force on 1st July 2012.

- 2.3 Under Section 7 of the Law, the States may amend the Schedule of offences by way of Ordinance. This can include inserting a new offence, removing an offence, and varying the band or the amount of the fixed penalty either for individual offences or more generally.
- 2.4 Following representations made to the Department from the HSSD, the Department believes that it would be beneficial for the offences set out under the Vehicular Traffic (Hospitals, etc.) Ordinance, 1985 (“the Ordinance”) to be added to the Schedule to the Law.

3. THE VEHICULAR TRAFFIC (HOSPITALS, ETC.) ORDINANCE, 1985

- 3.1 As set out above, the Princess Elizabeth Hospital has experienced difficulty controlling vehicular traffic within its grounds. This has resulted in patients and genuine visitors struggling to find a parking place, the places reserved for such visitors having been taken by other members of the public or staff. It is also not uncommon for vehicles to be parked contrary to the signs displayed, causing obstructions. The risks associated with this were recently evidenced through reduced access for the Fire and Rescue Service when they attended an automatic alarm at the Duchess of Kent building. The difficulties are likely only to be compounded through the opening of new services on the site, such as the Mental Health and Wellbeing Centre.
- 3.2 Under section 4 of the Ordinance, which covers the Princess Elizabeth Hospital, the Duchess of Kent House, the King Edward VII Hospital and the Castel Hospital, it is an offence to:
- drive or ride a vehicle on or along any part of the controlled land otherwise than on a controlled road or controlled parking place,
 - park a vehicle on any part of the controlled land otherwise than within a controlled parking place,
 - act contrary to, or fail to comply with a traffic sign.
- 3.3 Currently offending drivers can be prosecuted and on conviction, drivers are liable to a fine not exceeding level 2 on the uniform scale. Enforcement of the traffic restrictions in the hospital grounds is currently undertaken by staff of the HSSD who have been sworn in as members of the Special Constabulary supported by Guernsey Police as appropriate. Whilst the Ordinance is actively enforced in order to help ensure the safety of area users and the maintenance of traffic flow, HSSD are understandably sensitive in their enforcement activity, mindful of the potentially sensitive and emotive issues which may necessitate a visit to the hospital. As such, HSSD staff aim to contact vehicle owners to request the vehicle is moved prior to taking action. In the vast majority of cases, the owner agrees to move the vehicle and no further action is taken. In cases where there are not mitigating circumstances surrounding the offence or where the individual refuses to move their vehicle, staff may determine that it is appropriate for further action to be taken.

- 3.4 Following consultation with the HSSD, the Department recommends that police officers and members of the Special Constabulary be permitted to use their discretion to issue fixed penalty notices under the Law in relation to parking offences set out in the Ordinance. It is recommended that this is included as a "Band A" fixed penalty offence, that is £40 (reduced to £30 if paid within 7 days).

4. CONSULTATION

The Department has consulted with the HSSD who are supportive of the proposals.

5. LEGISLATION

- 5.1 The Law Officers have been consulted in relation to the legal issues set out in this policy letter. In order to implement the proposals there is a need for legislation. There is a small amount of drafting time needed to implement these proposals.

6. RECOMMENDATIONS

- 6.1 The States is recommended to:

- (a) approve the addition of the offences set out in section 4 of the Vehicular Traffic (Hospitals, etc.) Ordinance, 1985 to the Schedule of the Offences (Fixed Penalties)(Guernsey) Law, 2009,
- (b) direct the preparation of such legislation as may be necessary to give effect to the foregoing.

Yours sincerely

P L Gillson
Minister

F W Quin
M J Fallaize
M M Lowe
A M Wilkie

A L Ozanne (Non-States Member)

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

(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 9th November, 2015, of the Environment Department, they are of the opinion:-

1. To approve the addition of the offences set out in section 4 of the Vehicular Traffic (Hospitals, etc.) Ordinance, 1985 to the Schedule of the Offences (Fixed Penalties)(Guernsey) Law, 2009.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

CONSTITUTIONAL INVESTIGATION COMMITTEE

PROPOSAL TO ACHIEVE GREATER AUTONOMY IN THE LEGISLATIVE PROCESS AND INTERNATIONAL AFFAIRS FOR GUERNSEY

1. Executive Summary

- 1.1. This Policy Letter sets out the background of the formation of the Constitutional Investigation Committee (CIC), summarises the results of the deliberations of the Committee, and sets out proposals for change which the States of Deliberation are asked to endorse in order to discuss with and propose to the UK Government.
- 1.2. Guernsey is a mature democracy and a responsible jurisdiction. It has a long track record in managing its own affairs while meeting the highest international standards of governance and stability and upholding international law. Since the signing of the International Identity Framework with the UK Government in 2009, Guernsey has sought – in accordance with that framework – to ensure that, where appropriate, greater autonomy for managing its affairs can continue to be secured. It is an important measure of Guernsey’s maturity as a jurisdiction that it is able to demonstrate effective democratic self-determination within its existing constitutional relationship with the UK
- 1.3. The CIC was formed under the direction of the States of Deliberation in order to investigate proposals on greater autonomy in relation to legislative and international affairs – two important components of democratic self-determination.
- 1.4. This Policy Letter outlines some objectives for reform in the processing of legislation for Royal sanction, extension of international treaties and the process of entrustment. These are outlined in paragraphs 6 and 7. The CIC recommends that these objectives form the basis of negotiations by the States, through the Policy Council and its successor committee, with the UK in order to seek their implementation, between 2016 and 2020. This process should not be viewed as the culmination of evolution in the constitutional relationship between Guernsey and the UK, but rather as an important next phase.

2. Background

- 2.1. On 26th September 2013, the States of Deliberation considered a States’ Report submitted by the Policy Council entitled “Greater autonomy in the legislative process and international affairs” (the 2013 States’ Report). The report outlined the current constitutional relationship between Guernsey and the Crown. It explored how the UK Government managed its rôle in respect of that relationship, and presented some issues that had arisen in the past in respect of the management of that relationship. In particular, it highlighted how those issues

had led to delays in the legislative process and in the extension of international agreements to the island¹.

2.2. The States subsequently resolved²:

1 To direct that at their January 2014 meeting, and in accordance with Rule 18 of the Rules relating to the Constitution and Operation of States Departments and Committees, the States shall form the Constitutional Investigation Committee as a Special States Committee, the membership of which shall be:-

- a. The Chief Minister (as chairman);*
- b. Four sitting members of the States elected by the States (one of whom the Committee shall elect as vice-chairman); and*
- c. Two non-voting persons who are not sitting members of the States, elected by the States.*

1A. One of the Law Officers must be invited to be present at all meetings of the Constitutional Investigation Committee for the purposes of giving advice.

- 2. That the mandate of the Constitutional Investigation Committee shall be:*
- to review Guernsey's relationships with the government in the United Kingdom. Initially, but not exclusively, the following will be considered-*
 - The method of granting Royal Sanction of primary legislation,*
 - The method of extension of Acts of UK Parliament to the Island,*
 - The extension of the United Kingdom's ratification of treaties,*
 - The Island's own treaty making ability;*
 - to make recommendations in respect of other relationships with the government of the United Kingdom as identified by the Committee;*
 - to liaise directly with the States of Alderney, the Chief Pleas of Sark, the States of Jersey and the Government of the Isle of Man;*
 - to bring forward to the States of Deliberation the results of the investigation as to whether or not greater autonomy in legislative affairs and international representation should be sought and if so what proposals they would recommend for the States of Deliberation to consider;*
 - to review the constitutional, administrative and resource implications of proposed changes in legislative process or international representation;*
 - to take into consideration how any proposals might impact the current machinery of government or any proposals from the States Review Committee;*

¹ Billet d'État No XVIII 2013

² The Hansard report of this debate is available at: <http://www.gov.gg/article/106112/2013-Hansard> Vol 2 No 20 26th September 2013

- *to review any other relationship that is identified by the Panel and make recommendations to the States.*

3. *To direct the Policy Council to report to the States with a request for approval for funding the expenditure that will be incurred by the Constitutional Investigation Committee in discharging its rôle.*

2.3. On 30th January 2014, the States of Deliberation considered a report by the Policy Council recommending the membership of the CIC³. That was subject to an amendment placed by Deputy D B Jones and Deputy R A Perrot which inserted an additional section to the CIC's mandate. The States resolved:⁴

- 1 *To note that the Policy Council will report to the States with a request for approval for funding the expenditure that will be incurred by the Constitutional Investigation Committee in discharging its rôle in due course.*
- 2 *To elect Deputies R. Perrot, L. Trott, H. Soulsby, and R. Jones as members of the Constitutional Investigation Committee.*
- 3 *To elect Dr Elina Steinerte and R. Graham, as members of the Constitutional Investigation Committee who are independent of the States.*
- 4 *To resolve that the members of the Constitutional Investigation Committee who are not sitting members of the States will not be remunerated for attendance at meetings.*
- 5 *To direct that, as the mandate of the Constitutional Investigation Committee, in the context of reviewing Guernsey's relationships with government in the United Kingdom, includes initially, but not exclusively, considering the method of extension of Acts of the UK Parliament to Guernsey, it would be appropriate in this context to consider, in particular, the case of legislation which extends television licensing arrangements to the Island and therefore when the Committee reports back with its recommendations to the States, these shall include setting out the feasibility, advantages and disadvantages of repealing such legislation.*

2.4. The Committee held its first meeting on 19th February 2014.

2.5. Following a change of Chief Minister in March 2014, on 12th November 2014 the States considered a joint report from the Policy Council and CIC⁵ and resolved:

³ Billet d'État No I 2014

⁴ The Hansard report of this debate is available at: <http://www.gov.gg/article/111559/2014-Hansard> Vol 3 No 2 30th January 2014

⁵ Billet d'État No XXI 2014

1 *To agree that the membership of the Constitutional Investigation Committee shall be:*

- *The Chief Minister (as chairman);*
- *Five sitting members of the States elected by the States (one of whom the Committee shall elect as vice-chairman); and*
- *Two non-voting persons who are not sitting members of the States, elected by the States.*

2 *To elect Deputy P A Harwood as a member of the Committee.*

3. Approach of the Committee

- 3.1. At the first meeting of the CIC, a work plan was agreed. The first phase of the work of the CIC was to explore the current constitutional relationship and machinery, and to consider the issues highlighted in the 2013 report in more detail. In the second phase, the CIC examined other jurisdictions to explore how comparative issues are managed, in order to assess the strengths and weaknesses of those models, and to explore how they might relate to Guernsey's constitutional position. The third phase was to propose a new model for Guernsey that the CIC would seek to be endorsed by the States of Deliberation, prior to consultation with the other islands of the Bailiwick and with the other Crown Dependencies (CDs), and would recommend the States discuss with and propose to the UK Government.
- 3.2. The initial discussions included exploring in detail (a) the current legislative processes and granting of Royal sanction; (b) the processes by which international agreements, ratified by the UK, are extended to Guernsey; (c) the process by which entrustment to enter into international agreements is granted; (d) the processes by which UK Acts of Parliament are extended to Guernsey; (e) the rôle of the Privy Council's Committee of the Affairs of Jersey and Guernsey; (f) the administrative rôle played by officials at the Ministry of Justice (MoJ); (g) the international identity of Guernsey and the limitations of its international capacity; (h) the application of the Vienna Convention on the Law of Treaties; and (i) the entering into agreements under entrustment. The CIC was advised by the Law Officers during this research phase.
- 3.3. The CIC also took the opportunity to meet Lord Faulks, Minister of State at the MoJ with responsibility for managing the UK Government's relationship with the CDs, and with Senator Sir Philip Bailhache, Minister for External Relations in the States of Jersey. The matter was also discussed in detail with the government of the Faroe Islands, including the Prime Minister, Kaj Leo Johannesen, as there are some similarities between the Faroe Islands' constitutional relationship with the Kingdom of Denmark and Guernsey's constitutional relationship with the UK. Discussions have also taken place with

the States of Alderney and Chief Pleas of Sark through the External Relation Group of the Policy Council and between officials.

- 3.4. The CIC's recommendations were developed from those discussions and deliberations, and from an initial proposal developed by Deputy Perrot following the first two phases of the work of the CIC, with assistance from officers at the Policy Council. The proposal was amended and further developed by the CIC, before being unanimously agreed. The proposals are outlined in paragraphs 6 and 7 of this Policy Letter.

4. Comparison with other jurisdictions

Jersey

- 4.1. The CIC discussed the approach to the processing of legislation and international agreements by the States of Jersey. It was noted that the current mechanisms were identical to those in place for Guernsey. The States of Jersey had experienced similar delays and issues relating to the granting of Royal sanction and to the extension of international agreements. It was also noted that the States of Jersey were also generally of the view that the current relationship was operating well in respect of these matters, and that the work of the Justice Committee of the House of Commons in reviewing the MoJ's constitutional rôle had provided greater efficiency and improvements in how the relationship was administered which, indeed, has been the recent experience of the States of Guernsey. The CIC is conscious that any changes sought by the States of Guernsey may impact the way that the relationship operates in respect of Jersey, and therefore engagement on these matters between the Policy Council, and its successor committee, and the Jersey Chief Minister's Department and Department of External Relations should be ongoing.

The Isle of Man

- 4.2. The CIC looked at the Isle of Man in detail, in particular in relation to the granting of Royal sanction. This included discussion with the MoJ and officials from the Isle of Man Government. Primary legislation approved by Tynwald is submitted to the MoJ, where it is examined by MoJ lawyers to ensure that it complies with the international obligations, including human rights compliance, which have been extended to the Isle of Man, and for which the UK is responsible in international law before being submitted to Ministers for clearance. The Lieutenant Governor is then able to grant Royal sanction save in circumstances defined in the Order in Council of 23rd September 1981 (Appendix 1). This means that the Lieutenant Governor may not, unless authorised, give Royal sanction to Bills which:
 - i. deal wholly or partly with defence, international relations, nationality and citizenship, the powers and remuneration of the Lieutenant Governor or the constitutional relationship between the UK and the Isle of Man; or

- ii. affect the Royal prerogative or rights of Her Majesty in her private capacity.

The Lieutenant Governor may not give Royal sanction when directed by the Secretary of State at the MoJ to reserve Royal sanction for Her Majesty. The CIC noted that the administration of the office of the Lieutenant Governor in the Isle of Man contains significant differences to that office in Guernsey, including a much closer administrative relationship with the Chief Secretary's office (counterpart to the Chief Executive and Policy Council officers in Guernsey).

- 4.3. During 2014, only one Act of Tynwald was referred to the Privy Council out of a total of 14 Acts which were enacted that year. During 2015, to date 14 Acts of Tynwald have been granted Royal sanction, one of which was granted by the Privy Council. There are some years where no matters are referred to Privy Council. The CIC also explored the timescale of Royal sanction by delegated authority compared with the Privy Council, which usually took between two and three months. It was noted that any timescale advantage was not significant because the same administrative process was undertaken prior to Royal sanction in each instance. There was however a timing advantage during the months of August/September and during UK general elections when the Privy Council does not meet. There also some advantages where the administrative procedures in place meant that the MoJ had advance notice of forthcoming Bills that required processing.
- 4.4. The CIC noted that the process by which international agreements are acceded to is fundamentally similar to those processes in place in respect of Guernsey.

The Overseas Territories

- 4.5. The British Overseas Territories (OTs) have a different constitutional relationship with the UK from that of the CDs. The Bailiwick of Guernsey, Bailiwick of Jersey and the Isle of Man are dependencies of the Crown that are not part of the UK and have never been colonies of the UK. The OTs are dependencies of the UK and are, or were, colonies. The CIC focussed on the Cayman Islands, Bermuda and Gibraltar.
- 4.6. As is the case with the CDs, most of the OTs (including Cayman, Bermuda and Gibraltar) enact their own domestic legislation. The OTs' statutes are largely based on UK legislation, and the interpretation of laws by the OT courts largely follows the decision of the courts of England and Wales. Royal sanction can be granted by the Governor of that OT. The Governor has the power to refuse to grant Royal sanction and may reserve a Bill to request that it be referred to Her Majesty for decision. Certain legislation in respect of the OTs can also be initiated by the UK Government and given effect by Order in Council, made either under the Royal Prerogative or as a form of a statutory instrument made under an applicable Act of UK Parliament.

- 4.7. The OTs, as with the case of the CDs, cannot enter into international agreements on their own behalf without extending the UK ratification where entrusted so to do. The entrustments issued to many OTs are more general in their scope than those granted to CDs. For example, the entrustment issued to Bermuda in 2009 (Appendix 2)⁶ states that, subject to certain reservations and oversight provisions, the Government of Bermuda may enter into agreements on trade, on tourism, on emigration and on scientific and cultural matters. International agreements on certain other matters may be entered into by the Government of Bermuda with the express approval of the UK Government. In contrast with the CDs, the OTs have strong constitutional ties to the UK Government and the Governor in those islands is appointed by the UK Government and is accountable to it. The Governor of an OT has various defined responsibilities for oversight of the international relations of those jurisdictions. All of the OTs have written constitutions which define the relationship. In respect of Cayman, Bermuda and Gibraltar, such constitutions are made by Order in Council.

The Faroe Islands

- 4.8. The Faroe Islands are part of the Kingdom of Denmark and have been a self-governing administrative region of Denmark since 1948. They have a written constitution in the form of the 1953 Danish constitution, the 1948 Home Rule Act and the 2005 Takeover Act both made in respect of the Faroe Islands.
- 4.9. There is a close relationship between the Faroe Islands and the Danish Parliament (the Folketing), which includes there being two members from the Faroe Islands elected to the Folketing. The Danish Government is represented in the Faroe Islands by the Rigsombudsmanden (a High Commissioner). The Rigsombudsmanden has a seat in the Løgting (the Faroese parliament) where he is allowed to speak and advise on joint affairs but does not have a vote. The Rigsombudsmanden must be notified of decisions made by the Løgting and the Faroese Government. The close ties represent the shared sovereignty approach to the relationship between Denmark and the Faroe Islands.
- 4.10. Danish state authorities remain responsible for the Faroe Islands': judicial system; currency and monetary policy; policing and defence; family and inheritance law; and immigration and border control. The Home Rule Act defines the areas in which the Faroe Islands are autonomous, such as raising taxes, healthcare and welfare. Legislation made by the Løgting must be ratified by the Løgmaður (known as the Prime Minister) before it is enacted.
- 4.11. The 2005 Takeover Act gives the Faroe Islands a greater international identity and provides the basis on which they can act in international law. It allows the Faroe Islands government to represent itself, so that it can negotiate and conclude treaties in international law in matters that are administered by the Faroese authorities, such as, *inter alia*, financial regulation, fishing and other

⁶ Bermuda's first entrustment was issued on 12 September 1968.

trade policy, education, the environment and culture. However, such power does not apply to any agreements:

- i. affecting defence and security matters;
- ii. which also apply to Denmark;
- iii. to be negotiated within an international organisation of which the Kingdom of Denmark is a member.

Agreements which relate to human rights, such as the European Convention on Human Rights, cannot be extended to the Faroe Islands separately, and they must apply to the whole Kingdom when ratified by Denmark. This is a significant difference when compared with the CDs' relationship with the UK. Where Denmark is the signatory to an international agreement, it may designate the Government of the Faroe Islands as a party. When the Faroe Islands are entering into agreements directly they are referred to as "the Kingdom of Denmark in respect of the Faroes".

- 4.12. The Faroe Islands' constitution was of particular interest to the CIC. Whilst in some regards they are limited in how they may differ from Denmark, where they can express their own international identity they are afforded much more freedom to express that identity. Whilst there are many differences in the model of shared sovereignty between the UK and the CDs and between Denmark and the Faroe Islands, the CIC felt that there is much to learn from the way in which the shared sovereignty is exercised in respect of legislation and international agreements. These principles have been adopted where possible in its proposals described below (paragraphs 6 and 7 of this Policy Letter).
- 4.13. The office of the Faroese Prime Minister and its government's representative office in Brussels were very open in discussing the constitutional relationship and how it operated in practice, for which the CIC is extremely grateful.

The Cook Islands

- 4.14. The Cook Islands are self-governing and are in free association with New Zealand. They are part of the Realm of New Zealand and Her Majesty is the head of state. They are fully responsible for their internal affairs. New Zealand retains responsibility for their external relations and defence; these powers are exercised in consultation with the Cook Islands. The Islands make their own laws and New Zealand cannot legislate for the Cook Islands without their consent.
- 4.15. The Cook Islands have a more developed international identity than the CDs. They maintain diplomatic relationships with 43 states, are members of 42 international organisations and are a signatory to over 100 multilateral treaties in their own right. However, they are not a member of the United Nations (UN) in their own right and are not recognised as a sovereign state. Its international capacity to enter into such agreements are defined in its constitution (the Cook Islands Constitution Act 1964) and is considered to be an act of self-

determination by the UN. This constitution predates the Vienna Convention on the Law of Treaties (1969), which sets the rules in relation to signing international agreements. The Cook Islands' capacity to enter into treaties has been recognised by the Secretary-General of the UN following their being accepted to join certain international organisations. This acceptance is on the basis of their defined constitutional relationship with New Zealand.

- 4.16. The relationship between the Cook Islands and New Zealand has evolved in a way to enable the islands to pursue their own policies and interests. At the time the Constitution of the Cook Islands was brought into being, the then New Zealand Prime Minister, Norman Kirk, stated that "... it is, however, also intended that the Cook Islands be free to pursue their own policies and interests" and that "... the bond of citizenship does entail a degree of involvement [of New Zealand] in Cook Islands affairs. This is reflected in the scale of New Zealand's response to the Cook Islands' material needs; but it also creates an expectation that the Cook Islands will uphold, in their laws and policies, a standard of values generally acceptable to New Zealanders." He also stated that: "... the special relationship between the Cook Islands and New Zealand is on both sides a voluntary arrangement which depends on shared interests and shared sympathies. In particular it calls for understanding on New Zealand's part of the Cook Islands' natural desire to lead a life of their own and for equal understanding on the Cook Islands' part of New Zealand's determination to safeguard the values on which its citizenship is based."
- 4.17. Whilst the free association relationship the Cook Islands have with New Zealand is fundamentally different from the CDs and UK relationship, the CIC are of the view that the spirit of the relationship outlined by Norman Kirk should be the same.

Other jurisdictions

- 4.18. The CIC briefly looked at other jurisdictions such as former Netherland Antilles Islands (such as Curaçao), the French overseas collectivity of Saint Barthelemy, and the Åland Islands, but decided at an early stage to focus on the jurisdictions described in this Policy Letter. This enabled the CIC to focus its research on the areas of most interest given the limited resources available to undertake the work.

5. Main findings

- 5.1. The CIC is of the view that inherent in the UK Government, including the MoJ, changes in Ministers and officers present a significant danger that departmental memory may not be sufficiently accurate or extensive in the future to ensure that the present arrangements continue to work as smoothly in practice as they now do. This issue is compounded by a decrease in the level of resources available in the UK Government to manage the relationship, in particular since the recent austerity measures. History has shown that the arrangements between the States

of Guernsey and the UK Government Department responsible for the relationship have not always been all that they could, or should, be.

- 5.2. The efficiency of the administration of the current arrangements has been subjected to political changes in the UK Government. The UK's constitution and political process, and party politics, mean that successive UK governments are more susceptible than Guernsey's to significant ideological change. The CIC agrees that the political reality has to be respected. However, it is considered not unreasonable that Guernsey should seek a measure of stability in moving from an informal (and thus potentially volatile) working arrangement to a hardy and enduring negotiated accord that supports Guernsey's democratic self-determination in managing its own affairs. Moreover, it is likely that this will be in the interests of the UK as well as Guernsey, because it will reduce the administrative burden in the UK Government department responsible for managing the relationship. There has already been a very noticeable cut in the resources available to the MoJ in respect of its mandate relating to the CDs.
- 5.3. The CIC is of the view that the present arrangements are working well and it has also noted that there have been significant improvements following the two reports of the Justice Committee of the House of Commons in 2010 and 2014 on the CDs. Notwithstanding the foregoing the Committee wishes to propose a different model relating to primary law and treaties which should be the subject of more formal accord between the UK Government and the States of Guernsey. This accord would ensure current areas of good practice are further developed and then established on a more permanent basis which would make these developed processes more resilient and less likely to be subject to change as a result political changes in the UK Government. The CIC recommends that such an accord might appropriately reflect the approaches described below in paragraphs 6 and 7 and should draw upon the lessons learned from the other jurisdictions described in this Policy Letter.
- 5.4. In respect of the granting of Royal sanction, the CIC found no direct comparator other than the Isle of Man. The CIC noted that there was little difference in the time currently experienced in granting of Royal sanction by the Isle of Man method. It was understood that there were some benefits in taking the processing of legislation outside the strict timetable required when placing the matter before the Privy Council. This would particularly be the case when the Privy Council does not meet during the summer months or when meeting schedules are disrupted by the UK General Election cycle. However, the CIC saw the benefits of bringing the process of Royal sanction closer to Guernsey, where it would not cause a problem for the UK Government, and that the Lieutenant Governor would be well placed - given the constitutional position of his rôle - to act as an agent for Her Majesty in the granting of Royal assent. This accurately reflects Guernsey's maturity as a jurisdiction with responsibility for its own affairs and provides benefits such as speed and efficiency in processing legislation.

- 5.5. The CIC noted with particular interest the scope of the treaty - making power of the Faroe Islands and the approach to shared sovereignty taken by the Kingdom of Denmark. The CIC would seek to replicate elements of both in the proposed accord. The CIC also noted the scope of the general entrustment issued to the OTs which is limited by the much closer relationship which the OTs have with the UK. The committee was of the view that these models provide a strong basis on which democratic self-determination can be expressed.
- 5.6. The CIC also took note of the States' resolution of 25th February 1987 in respect of international conventions and agreements which provides for the delegated authority in relation to entering treaties and reporting to the States of agreements received by the Policy Council. The committee noted that the UK Parliament has no direct involvement in the making of treaties. However, treaties cannot be ratified until the UK Parliament has been notified and until 21 parliamentary days have elapsed (this was a constitutional convention known as the 'Ponsonby Rule' and was subsequently codified by the Constitutional Reform and Governance Act 2010). This has the effect of informing the UK Parliament of the treaty and allowing for it to be debated, thus providing an element of parliamentary consent. Given the greater autonomy being suggested by its proposals the CIC recommends that the Policy Council, and its successor committee, should consider reviewing the States' resolution of 25th February 1987, where necessary in conjunction with the States Assembly and Constitution Committee (SACC). This will allow the opportunity to update this resolution, in particular in relation to the parliamentary reporting of treaties.
- 5.7. When the CIC looked at other jurisdictions, it noted that they all had written constitutions. However, it concluded that (at least, for the present) it saw no merit in pursuing a written constitution for Guernsey to clarify the constitutional relationship with the UK. It considered that to develop a written constitution would constrain the ability to develop the constitutional relationship over time as the Island develops in competence, in particular whilst further developing Guernsey's international identity. In addition, there is no historical precedent for there being a written constitution within the Bailiwick of Guernsey, or more generally within the British Isles.
- 5.8. The CIC also saw no merit in changing the relationship with the Crown, in changing the rôle of the Lieutenant Governor, or in seeking a constitutional relationship which differs fundamentally from that of the other Channel Islands, although it has no objection to there being different processes developed in how the constitutional relationship is delivered.
- 5.9. There was no desire within the CIC for there to be closer formal ties between the UK Government or the Westminster Parliament, such as those in place in the Faroe Islands and the OTs. This includes there being no desire for representation in the House of Commons, the House of Lords, or representation of the UK Government in Guernsey. The CIC considered that this would severely weaken

the current constitutional relationship and misrepresent to the wider world the status and autonomy of Guernsey.

- 5.10. The proposals described in this Policy Letter, and outlined below, were supported unanimously by the CIC. These suggest an ideal approach, in the view of the CIC, for the processing of legislation for Royal sanction, and for the extension of international agreements and process by which entrustment is granted to allow Guernsey to enter into agreements.

6. Proposal for change in the making of Orders in Council

- 6.1. A draft Projet should bear the certificate of one of the Law Officers, as is the practice now, to the effect that the Projet, if enacted into law, would not in that Law Officer's opinion conflict with any of Guernsey's treaty obligations or with any requirement of good government.
- 6.2. That certificate would be included in an Explanatory Memorandum sent to the MoJ with the Projet shortly after its approval by the States of Deliberation, as at present. If within a period of six weeks of the date of the Explanatory Memorandum the MoJ responded, demurring at the automatic passage of the Projet into law on the grounds ("the Projet Demurral Grounds") that it:
- i. conflicted with Guernsey's international treaty obligations, notwithstanding the certificate of the Law Officer;
 - ii. placed the UK in conflict with one of its international treaty obligations;
 - iii. could not be the subject of a recommendation to Her Majesty by the MoJ by reason of a potential breach of the Crown's responsibility for good government; or
 - iv. was the subject of a petition to Her Majesty received within the 28 days prescribed by the Order in Council of 13th July 2011,

then and in any such case such Projet would be the subject of debate until either agreement were reached or the Projet were withdrawn. If no such demurral were received, or if agreement were reached, the Projet could then be ratified on behalf of Her Majesty by the Lieutenant Governor of Guernsey and registered in the Royal Court of Guernsey. This proposal is summarised as a flow chart in Appendix 3.

- 6.3. The Committee considered how Royal sanction may be delegated in the prolonged absence of the Lieutenant Governor. The CIC noted the conflict of interest, perceived or otherwise, that might arise in the event of the Bailiff, in his capacity as deputy or acting Lieutenant Governor, being asked to give Royal sanction to a Projet de Loi which was approved at a States' meeting over which he had presided. The proposals outlined above preserve the rôle of the Committee of the Affairs of Jersey and Guernsey for certain Projets de Loi and where the Lieutenant Governor may wish to reserve his the delegated authority in favour of Royal sanction by the Privy Council. The CIC therefore suggests in

these circumstances, or in any other instance of a conflict of interest perceived or otherwise, the process of the Royal sanction could be reserved for the Privy Council.

7. Proposals for change in the making of treaties, conventions and agreements in respect of Guernsey

- 7.1. The UK is responsible for the international representation of the British CDs and OTs since they are not fully independent sovereign states, and as such lack full international legal personality, and therefore have no capacity to enter into international agreements of their own volition. The long-standing practice of the UK when it ratifies, accedes to, or accepts a treaty, convention or agreement is to do so on behalf of the United Kingdom of Great Britain and Northern Ireland and any of the CDs or OTs which wish the treaty to apply to them⁷. In relation to Guernsey, distinction should be made between (a) the extension of treaties and (b) entrustment.

Extension of treaties ratified by the UK

- 7.2. The extension of treaties ratified by the UK does not engage the international legal capacity of Guernsey directly since it is the sovereign State, the UK, which undertakes the act of ratification, accession or acceptance of a treaty. Extension is a sovereign expression of will relating to Guernsey, however it is effectively a decision for the Crown, exercised by the UK Government, with the acquiescence of the Guernsey authorities. In other words, through the act of extension, Guernsey submits to and accepts the expression of the sovereign will of the UK.
- 7.3. For the future, it is proposed that as with draft Projets, notification of the desire to have a treaty extended would be given to the MoJ through official channels⁸. A Law Officer would provide a certificate to the effect that in the opinion of that Law Officer the insular authorities complied with the treaty obligations through the relevant legislation, administrative procedures and policies and, further, that in extending such treaty to Guernsey the latter would not be in breach of any existing other treaty to which it is subject. As at present, a compliance matrix would be sent with the certificate to demonstrate compliance unless it is agreed by the MoJ and Law Officers that such is not necessary.

⁷ Fact sheet on the UK's relationship with the Crown Dependencies
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/361537/crown-dependencies.pdf)

⁸ The initial stage is made in line with the Annex B – “How-to” note on the extension of international instruments to the Crown Dependencies
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/185881/international-instruments-crown-dependencies.pdf) and Annex C – “How-to” note on dealing with requests from the Crown Dependencies to extend the UK's ratification of international instruments
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/185882/request-extend-international-instrument.pdf).

7.4. If, within a period of six weeks of the date of the notification, the MoJ responded demurring at the support for extension of the international instrument on the grounds (“the Treaty Extension Demurrals Grounds”) that:

- i. Guernsey does not meet the treaty’s obligations, notwithstanding the certificate of the Law Officer and compliance matrix;
- ii. Guernsey’s legislation, administrative procedures and/or policies conflict with how the UK meets the treaty’s obligations;
- iii. The notification contains a request for reservations or declarations that it would be necessary to agree with the UK and the relevant treaty body;
- iv. Extension would involve a potential breach of the Crown’s responsibility for good government;

then and in any such case extension of the treaty would be the subject of debate until either agreement were reached or the notification were withdrawn.

7.5. If extension is granted without demurrals or with agreement, the Crown would agree to make a declaration to the relevant body that the treaty extends to Guernsey and would provide a copy of the exchange of notes containing this declaration through official channels for registration in the Royal Court of Guernsey. This proposal is summarised as a flow chart in Appendix 4.

Agreements entered under entrustment

7.6. Whilst Guernsey does not have full international legal personality as an independent State, over the past decades it has nevertheless developed some international identity as recognised by the MoJ⁹ and the Justice Select Committee¹⁰. Guernsey has been entrusted to conclude its own international agreements such as bilateral treaties relating to taxation and asset sharing, and discussions have been held on entrustments relating to other agreements such as bilateral investment treaties and social security agreements. It is therefore now accepted as a matter of practice by both the States of Guernsey and the UK Government that Guernsey may be authorised to conclude its own international agreements.

7.7. Further, the MoJ has stated that it supports the use of entrustments as a way to enable the CDs to represent their own interests on the international stage¹¹. With

⁹ The Ministerial foreword to the Government Response to the 2010 Report reiterates this point that “*it should be recognised that the Crown Dependencies do have an international identity which is different from that of the United Kingdom.*” (<https://www.gov.uk/government/publications/government-response-to-the-justice-committees-report-crown-dependencies>)

¹⁰ The Justice Committee report from 2010 “Crown Dependencies” (<http://www.publications.parliament.uk/pa/cm200910/cmselect/cmjust/56/56i.pdf>) and report from 2014 report “Crown Dependencies: developments since 2010 report” (<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmjust/726/726.pdf>)

¹¹ The Government Response to the Justice Select Committee’s Report ‘Crown Dependencies: developments since 2010’ states that “*Her Majesty’s Government respects the Crown Dependencies’ desires to develop their international identities and enhance their international engagement within the*

a view to the widening of the scope of entrustment, it is suggested that a general entrustment should be given which states that entrustment is valid, save where the agreements concluded under it:

- i. affect defence and security matters;
- ii. restrict Human Rights;
- iii. also apply to the UK;
- iv. require the participant to be a sovereign state;
- v. are to be negotiated within an international organisation of which the UK is a member.

7.8. In addition the general entrustment could also describe other principles to be followed when using entrustment to enter into agreements with the support of the UK. The general entrustment would not preclude entrustment being granted by the UK in respect of the reserved list outlined in paragraph 7.7.

7.9. Similar demurred grounds to those set out in sub-paragraphs (i) to (iii) paragraph 6.2 and the six week time scale would be embodied in the agreement (suitably adjusted in respect of the matters described in sub-paragraphs (i) to (v) of paragraph 7.7).

7.10. Upon granting of any entrustment, a signed copy would be sent through official channels to the insular authorities.

7.11. This proposal is summarised as a flow chart in Appendix 5.

8. Seeking to implement the change

8.1. The CIC is of the view that the proposals described above represent a reasonable position which provides Guernsey with the appropriate responsibility for its international identity, whilst retaining sufficient checks and balances for the UK Government to manage the risk of its being in breach of international obligations for which it is responsible in respect of Guernsey. It also provides a process that will ensure consistency of approach and will mitigate against the risk of the UK Government being able to frustrate the democratic will of the States of Guernsey in respect of domestic legislation and the exercise of its growing international identity.

8.2. The next steps should include the following:

boundaries of the constitutional relationship.” and that “The Ministry of Justice is also supportive of the Crown Dependencies seeking letters of entrustment in additional policy areas and looks forward to hearing from the Islands on any specific proposals they may have.”
<https://www.gov.uk/government/publications/government-response-to-the-justice-select-committees-report-crown-dependencies-developments-since-2010>

- (a) a discussion with the MoJ on how these steps can be implemented, and within what timescale;
- (b) further detailed discussion with Alderney and Sark on the potential impact of these proposals, and to take into account their views;
- (c) detailed discussion with Jersey and the Isle of Man on the potential impact of these proposals, and to understand their views in full.

This work should be directed by the Policy and Resources Committee which will be constituted from 1 May 2016, in accordance with the States of Deliberation's support for the proposals made by the States Review Committee.

- 8.3. As mentioned in paragraph 5.2, it should be noted that the MoJ in particular has had its resources reduced when compared with previous years, and that such reduction is especially applicable to the resources available for working with the CDs. It is anticipated that if implemented the proposals will reduce the administrative burden placed on the UK Government when reviewing legislation for Royal sanction and extending international treaties as well as removing the potential burden for handling requests for entrustment. Given that it is in the longer-term interests of the MoJ to implement the proposals set out in the CIC recommendations, the view of the committee is that the proposals when implemented will further reduce the burden on the department. However, in the short-term it will mean an impact on the MoJ's resources. In order to assist the MoJ in prioritising this work, the support of the other Channel Islands and the Isle of Man will be important. The CIC is of the view that it would be mutually advantageous to Guernsey and the UK Government to implement the proposals during the next term of the States Assembly (2016-20) and during the term of the current UK Government (up to 2020).

9. Extending UK Acts of Parliament and extra territorial effect

- 9.1. When forming the CIC, the States included an additional requirement of the CIC's mandate to look at the extension of UK Acts of Parliament, in particular those Acts which relate to the extension of television licensing arrangements.
- 9.2. The CIC has indeed looked at the matter of extending Acts of Parliament and in particular to the arrangements in Jersey. Article 31 of the States of Jersey Law 2005, as amended, provides, *inter alia*, a duty to refer to the States of Jersey Assembly any Acts of UK Parliament which apply directly to Jersey or where an Order in Council should be made to extend an Act of UK Parliament (a copy of the clause is contained in Appendix 6). The CIC discussed with Senator Sir Philip Bailhache (a former Bailiff of Jersey and now its External Affairs Minister), the operation of this Article, where propositions are lodged in Jersey by the Chief Minister, being responsible for international relations, even when the policy matters within the proposition may relate to the mandate of another Minister. The CIC is of the view that there would be merit in exploring how such a provision might operate in respect of Guernsey, and recommends that the States direct SACC to examine how such a provision might work within the scope of

the Reform Law (Guernsey) 1948 and within the Rules of Procedure. Following this work the SACC should bring a report to the States recommending similar provisions in respect of the Reform Law (Guernsey) 1948.

- 9.3. The CIC is of the view that the most significant issue in relation to television licence fee arrangements was the implementation of a criminal offence without an express resolution of the States of Deliberation. The CIC noted that the UK Government has announced a review of the TV licensing system as part of the BBC Charter review, which includes consideration as to whether TV licence fee offences should be subject to criminal or civil sanction. It also felt the introduction of a provision such as Article 31 of the States of Jersey Law 2005 would prevent the risk of similar issues arising in future.
- 9.4. The mandate of the CIC required it to look at the merits or otherwise of repealing the legislation which relates to television licensing. However, it considered that to do so would impact upon broadcasting and its regulation more generally, and is likely to have a number of unintended consequences given the long standing association with UK broadcasting legislation. The CIC is of the view that, given these consequences, and that the question was much wider than any constitutional issue, the assessments of the merits of this legislation was a matter for the Home Department whose mandate expressly covers broadcasting areas.
- 9.5. In its deliberations, the CIC also discussed the extra-territorial effect of Acts of UK Parliament, in particular when the provision of an Act relates to British nationals. The CIC agreed that this placed greater emphasis on the importance of consultation by the UK Government with the CDs when making such legislation due to the constitutional relationship. The CIC noted the work undertaken since the reports of 2010 and 2014 by the Justice Committee of the House of Commons on the Crown Dependencies which had improved the level of consultation and engagement between the UK Government and the States of Guernsey. This work should continue to ensure that these standards develop.

10. Other work and future of the CIC

- 10.1. The CIC discussed a number of other matters which it might explore in accordance with its mandate that enable it to “*review any other relationship that is identified by the Panel and make recommendations to the States.*” These matters included (a) the rôle of Bailiff as presiding officer to the States of Deliberation, (b) the rôle and accountability of the Law Officers and (c) the rôle of the Lieutenant Governor. However, the CIC did not have the resources to undertake detailed research into those matters and noted that they were arguably outside the scope of the report which established the CIC. The CIC recommended that the Policy and Resources Committee of the States, to be established from 1st May 2016, should consider if these matters were a priority and if so should recommend to the States the terms and scope of any such review. Whilst these matters have not been researched it should not be inferred that all Members of the CIC were content with the status quo on these matters.

- 10.2. In July 2015, the States agreed detailed proposals for the reform of the Machinery of Government as proposed by the States Review Committee (SRC). The CIC has considered how the SRC proposals, due to be adopted from 1st May 2016, will impact the CIC proposals and has concluded that there is no impediment to bringing forward this matter. Furthermore the committee is of the view that the proposals, if implemented successfully, will help complement the enhanced governance arrangements being put in place as a result of the work of the SRC.
- 10.3. The CIC recommend that it should be dissolved at the end of the States term on 30th April 2016, in line with the proposals by the SRC to dissolve Special States' Committees. Should any further work be prioritised, it should be for the States, subject to the reforms due to be implemented on 1st May 2016, to consider the most appropriate way for this work to be undertaken.

11. Resources and legislation

- 11.1. The proposal outlined in this Policy Letter should not require any additional resources to lead negotiations; these are matters which fall within the scope, remit and expertise of the External Relations team of the Policy Council along with advice from the Law Officers. The successor committee to the Policy Council will need to ensure it has adequate resources to commit to this work alongside its other priorities.
- 11.2. The CIC noted that the implementation of the proposals may result in additional work for Policy Council staff and the Law Officers to ensure that the relevant administrative systems are in place. This should be balanced against any efficiency saving made as a result of the more streamlined processes for the granting of Royal sanction and the extension of treaties. This will reduce the amount of work undertaken to following up enquiries and administrative work required by the current processes. Whether any budget will be required is contingent on the outcome of any negotiation with the UK Government on these matters.
- 11.3. The CIC has not identified any legislation which will be required to implement these recommendations at this stage, as the proposals relate to the refinement of the administration of the existing constitutional relationship. Should any legislation be identified during the process of negotiation, the matter will be brought back before the States as necessary.
- 11.4. The CIC noted the amount of work that is undertaken to manage and look after the agreements which the States have had extended or signed under entrustment and to prepare for any periodic report required by these agreements. Such work is currently managed on a case-by-case basis by the External Relations team of the Policy Council, whilst undertaking other functions with competing priorities. The committee is strongly of the view that if the States are to have greater autonomy in international relations they should invest in the office which manages these agreements to ensure that Guernsey is able to conduct itself

internationally in a mature and responsible manner. The CIC therefore recommends that the Policy Council, or its successor, should prepare a business case to establish an appropriately resourced treaty function.

12. Governance and consultation

- 12.1. The CIC is mindful that the proposals outlined in this Policy Letter will impact upon the way Bailiwick-wide legislation is made and will also have an impact on Alderney and Sark. It may also be possible for the proposals to be applied across the Bailiwick. Whilst the authorities in Alderney and Sark have been informed of the proposals in their generality, it will now be essential for detailed discussions to take place.
- 12.2. The proposals outlined in this report have been considered in respect of Guernsey only. Given the relationship shared by Jersey and the Isle of Man in these matters, consultation should also be ongoing with these two Crown Dependencies.

13. Recommendations

13.1. The States are recommended:

- a. **To approve the objectives outlined in paragraphs 6 and 7 in this Policy Letter relating to: the granting of Royal sanction; the extension of international agreements; and the entering into agreements under entrustment.**
- b. **To direct the Policy Council, and its successor Committee, to liaise with the States of Alderney, Chief Pleas of Sark and the States of Jersey, and negotiate with the UK authorities proposals to seek to implement these objectives, and to do so before 2020.**
- c. **To direct the States Assembly and Constitution Committee, to investigate the possibility of amending the Reform (Guernsey) Law 1948 to require the referral of certain matters to the States of Deliberation relating to UK Acts of Parliament which have direct effect or are to be extended to Guernsey by Order in Council, and bring any proposals before the States thereon.**
- d. **To dissolve the Constitutional Investigation Committee on 30th April 2016.**
- e. **To direct the Policy Council, and its successor Committee, to prepare a business case to establish a treaty management function in the External Relations team at the Policy Council and its successor body.**

J P Le Tocq
Chief Minister and Chairman

4th November 2015

R A Perrot
Vice Chairman

L S Trott
H J R Soulsby
R A Jones
P A Harwood

Dr E Steinerte (Non-States member)
Col. R H Graham LVO MBE (Non-States Member)

Appendix 1 – Processing legislation for the Isle of Man

(Royal Assent to Legislation (Isle of Man) Order 1981.)

At the Court at Buckingham Palace

THE 23rd DAY OF SEPTEMBER 1981

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

“WHEREAS immediately prior to the making of this Order in Council the power of Tynwald to make laws has been exercised by bills passed by Tynwald and assented to by Her Majesty:

AND WHEREAS it is expedient that laws passed by Tynwald and wholly relating to the internal affairs of the Isle of Man should normally be assented to by the Lieutenant Governor of the Isle of Man on behalf of Her Majesty:

NOW, THEREFORE Her Majesty, by virtue and in exercise of all the powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order in Council may be cited as the Royal Assent to Legislation (Isle of Man) Order 1981 and shall come into operation on the 1st day of November 1981.

2. Subject to the provisions of Articles 3 and 4 any bill passed by Tynwald, which would before the coming of operation of this Order in Council have been submitted for the assent of Her Majesty in Council, may be submitted to the Lieutenant Governor who may assent to the bill on behalf of Her Majesty.

3. The Lieutenant Governor shall reserve for the signification of Her Majesty's pleasure any bill which he considers should be so reserved or which he is directed to reserve or which he is directed to reserve by the Secretary of State and shall consult the Secretary of State about the reservation of any bill, which in the opinion of the Lieutenant Governor

(i) deals wholly or partly with defence, international relations, nationality and citizenship, the powers and remuneration of the Lieutenant Governor or the constitutional relationship between the United Kingdom and the Isle of Man; or

(ii) affects the Royal prerogative or the rights of Her Majesty in Her private capacity.

4. Before the Lieutenant Governor assents to any bill he shall satisfy himself that the Secretary of State has decided that he should not give directions to the Lieutenant Governor under Article 3.

N. E. Leigh
Clerk of the Privy Council

Appendix 2:**Letter of Entrustment issues by the UK Government to Bermuda in 2009**

Sir Richard Gozney KCMG
 Governor
 Government House
 Hamilton
 Bermuda

1. I have the honour to refer to the review of the external affairs matters that are delegated to the Government of Bermuda. This letter revises and replaces the letters of 12 September 1968 and 27 July 2005, which previously addressed this subject.
2. The Government of the United Kingdom must continue to be responsible for the external relations of Bermuda. In carrying out their general responsibility, however, the Government of the United Kingdom will, whenever practicable, seek the fullest consultation with the Government of Bermuda and will at all times have special regard to the interests of Bermuda. In addition, subject to the stipulations set out in paragraphs 3 to 8 of this letter, the Government of the United Kingdom hereby grant general authority to the Government of Bermuda to commence formal negotiations and to conclude agreements, whether bilateral or multilateral, in the following areas of external affairs:
 - (a) trade agreements with other countries relating to the treatment of goods and services;
 - (b) agreements with other countries relating to tourism as it affects Bermuda;
 - (c) agreements for technical assistance or of a cultural or scientific nature with any independent member or members of the Commonwealth or the United States of America or such other authorities as the Government of Bermuda may request and the Government of the United Kingdom may approve;
 - (d) agreements with other countries relating to emigration from Bermuda to those countries and to emigrant labour schemes.

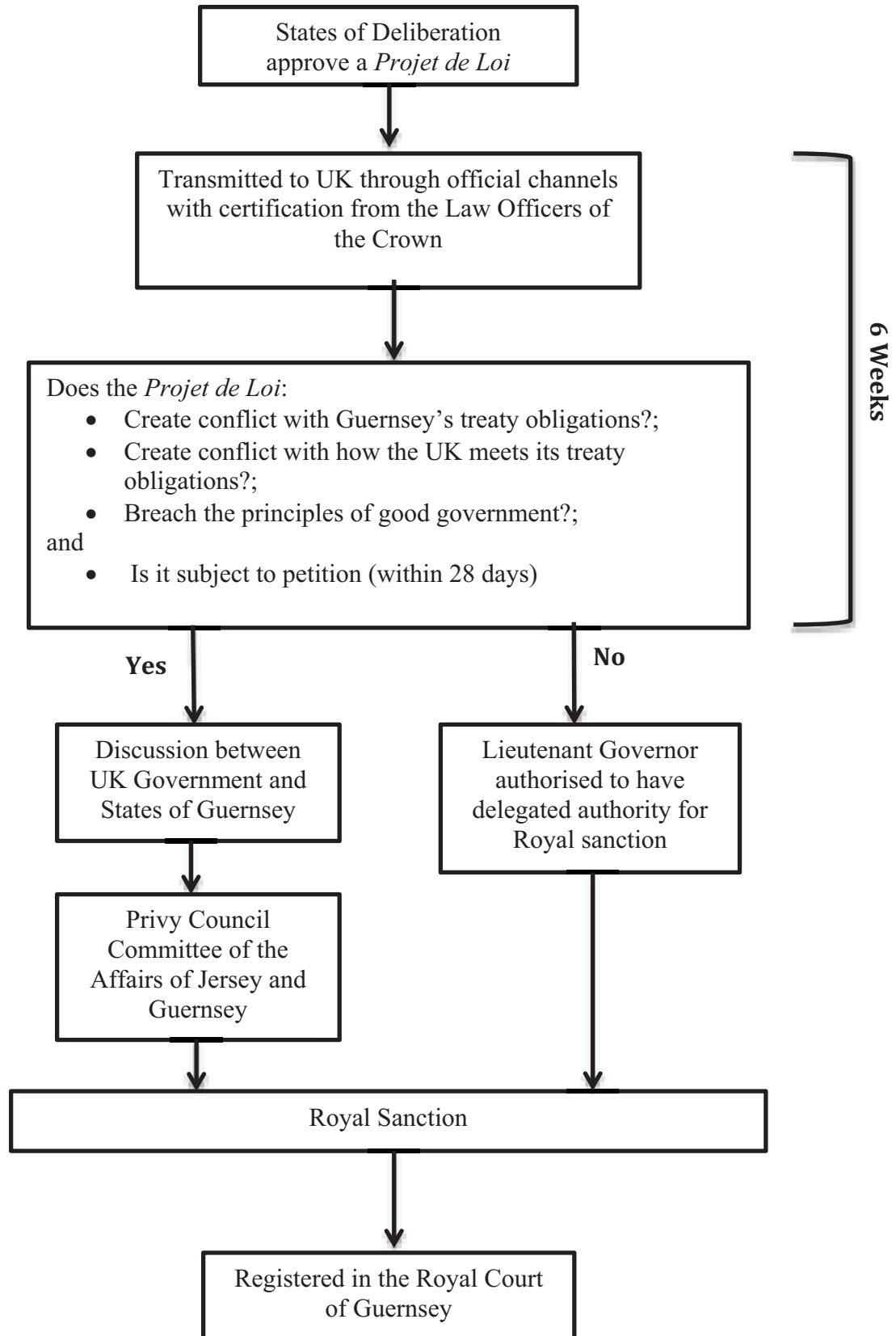
Authority is also delegated to the Government of Bermuda to arrange visits for trade or commercial purposes by representatives or residents of Bermuda to any other country, and by representatives or residents of any other country to Bermuda. But questions relating to the establishment of permanent or temporary representation of other countries in Bermuda and of Bermuda in other countries, whether for consular or other purposes, will be determined by the United Kingdom after consultation with the Government of Bermuda.

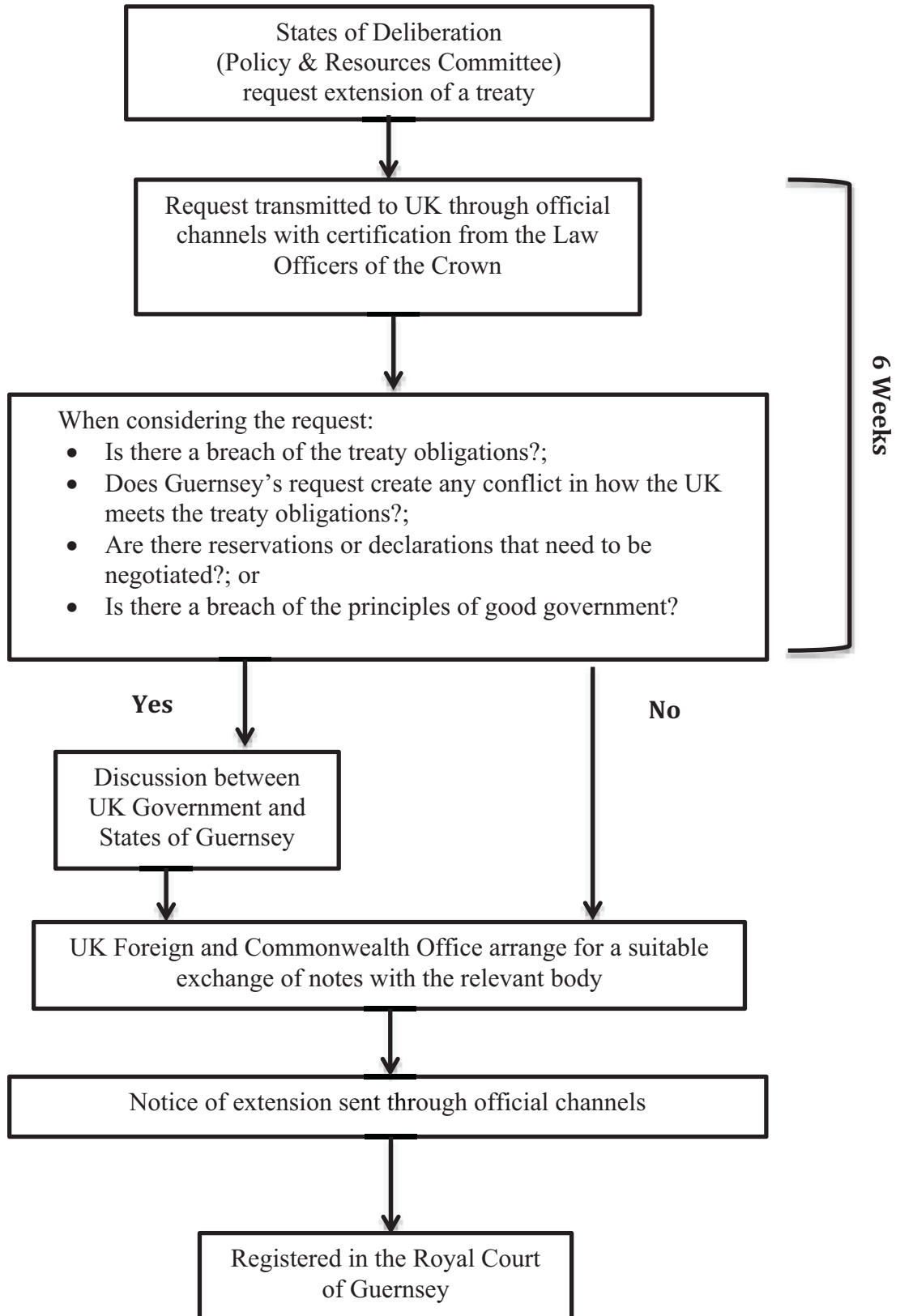
3. The Government of the United Kingdom will look carefully at each proposal by the Government of Bermuda to conclude an agreement or arrange a visit under

the general authority granted in paragraph 2, and will give sympathetic consideration to any request by the Government of Bermuda for authority to take action on individual questions of external relations not covered by this letter. However, there may be occasions where a proposal conflicts with the UK's international policies or obligations and, therefore, the Government of Bermuda should not assume that the United Kingdom will agree with every proposal to conclude an agreement or otherwise to act in the field of external affairs – authority will not be automatic.

4. Nothing contained in this letter authorises the commencement of the negotiation or conclusion of any agreement relating to civil aviation, shipping, defence, or internal security, including aviation and maritime security, affecting Bermuda without prior approval from the Government of the United Kingdom. Where the Government of the United Kingdom engages in any discussion relating to these matters as they affect Bermuda, they will, whenever practicable, engage the Government of Bermuda in full consultation. The United Kingdom will also consider the inclusion of a representative of the Government of Bermuda, where that would be practicable, either as an adviser or as an observer or in some similar capacity, in any United Kingdom delegation attending international discussions about civil aviation, shipping or finance in which the interests of Bermuda are materially involved.
5. Nothing contained in this letter authorises the Government of Bermuda to negotiate or conclude any agreement that would give rise to any financial commitment or obligation for the Government of the United Kingdom. All financial obligations and commitments arising from any agreement concluded by the Government of Bermuda will be the sole responsibility of the Government of Bermuda, unless agreed otherwise with the Government of the United Kingdom.
6. In view of the general responsibility of the Government of the United Kingdom for the external affairs of Bermuda, the Government of Bermuda will inform the Government of the United Kingdom, through the Governor, prior to the commencement of any formal negotiations delegated to the Government of Bermuda by paragraph 2 of this letter and, thereafter, will keep them informed of the progress of any such negotiations, and will consult the Government of the United Kingdom on the text of any proposed agreement or other instrument in good time before the agreement or other instrument is to be concluded. The Government of the United Kingdom will inform the Government of Bermuda if it should appear that the actions or proposals of the Government of Bermuda conflict with, or are likely to lead to conflict with the international commitments or obligations, the responsibilities or any policies of the Government of the United Kingdom. In that event the Government of the United Kingdom will advise the Bermuda Government as regards those commitments, obligations or policies and, so far as possible, further advise how best the intentions and proposals of the Government of Bermuda might be carried into effect. But it will be necessary for the Government of Bermuda to abide by the decision of the Government of the United Kingdom.

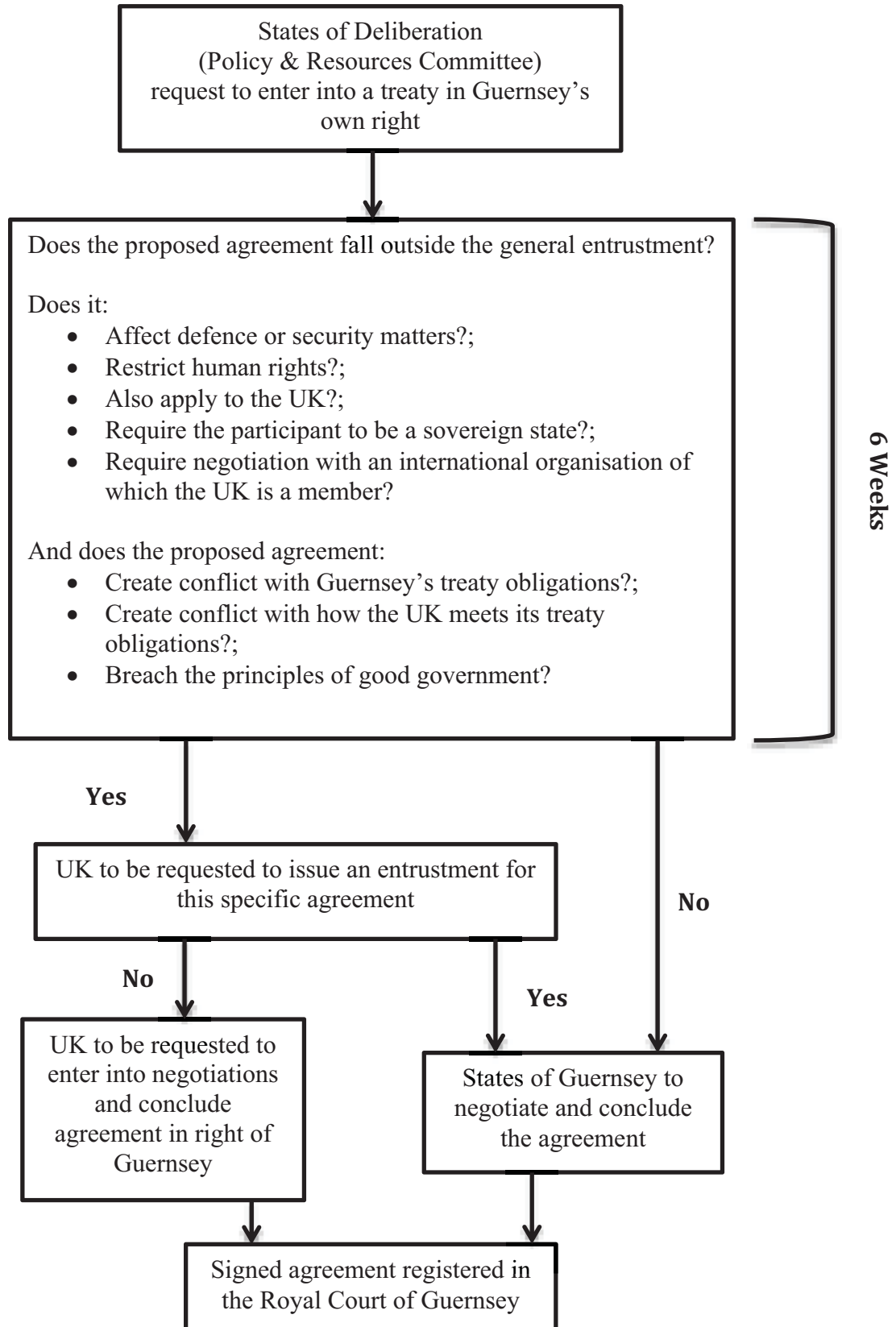
7. In addition to the requirements of paragraph 6, the Government of Bermuda will:
(1) provide annually a written report to the Government of the United Kingdom through the Governor summarising the activities which have taken place under the terms of this entrustment during the preceding year; and (2) make the Government of the United Kingdom aware, through the Governor, of any arrangement, memorandum of understanding or other similar instrument that they are negotiating with other counties or with institutions, whether relating to the subject areas covered by paragraph 2 of this entrustment letter or not, and should forward a copy of the text thereof for consideration and comment by the Government of the United Kingdom in good time before signature.
8. The Government of Bermuda will supply to the Government of the United Kingdom a certified copy of any agreement it concludes under the terms of this letter of entrustment for the purpose of United Kingdom treaty registration.
9. I should be grateful if you would acknowledge receipt of this letter and confirm that the Government of Bermuda accept the authority delegated in paragraph 2 above, subject to the understandings and stipulations set out in paragraphs 3 to 8 in relation to such delegation, which will come into effect on the date of your letter confirming acceptance thereof or on 1 December 2009, whichever is sooner. The delegations of authority in the letters of 12 September 1968 and 27 July 2005 will cease to have effect on the date that the delegation in this letter comes into effect.

Appendix 3:**Proposal for Change in making of Orders in Council**

Appendix 4:**Proposal for change to the extension of treaties ratified by the UK to Guernsey.**

Appendix 5:

Proposal for change to the entering into agreements under Entrustment



Appendix 6:

Article 31 - States of Jersey Law 2005

31 Duty to refer certain matters to the States

(1) Where it is proposed –

- (a) that any provision of a draft Act of the Parliament of the United Kingdom should apply directly to Jersey; or
- (b) that an Order in Council should be made extending to Jersey –
 - (i) any provision of an Act of the Parliament of the United Kingdom, or
 - (ii) any Measure, pursuant to the Channel Islands (Church Legislation) Measures 1931 and 1957[44],

the Chief Minister shall lodge the proposal in order that the States may signify their views on it.

(2) Where, upon transmission of an Act of the Parliament of the United Kingdom containing a provision described in paragraph (1)(a) or of an Order in Council described in paragraph (1)(b) to the Royal Court for registration, it appears to the Royal Court that the States have not signified their agreement to the substance of the provision or Order in Council –

- (a) the Royal Court shall refer the provision or Order in Council to the Chief Minister; and
- (b) the Chief Minister shall, in accordance with paragraph (1), refer it to the States.

- (N.B. The Treasury and Resources Department notes that, although existing resources will be used to implement recommendations a – d, the Policy Council advises that contingent on the outcome of negotiations with the UK Government, there may be a requirement for additional budget in order to administer the revised arrangements. It is expected that any such requirement would also be met by a reprioritisation of existing resources.

Furthermore, if the business case for the establishment of a ‘treaty management function’ (recommendation ‘e’) is approved, any resource requirements should be made available by reducing or ceasing some current services which are considered to be a lower priority.)

- (N.B. The Policy Council acknowledges the detailed research undertaken by the Constitutional Investigation Committee since its formation in 2014, and commends the committee for undertaking this work without the need for addition resources.

The Policy Council agrees that the current process for granting Royal sanction and entering into international agreements has improved since the Justice Committee of the House of Commons’ reports of 2010 and 2014 on the Crown Dependencies but that there is significant merit in further developing these processes and safeguarding them from impact by political change in the UK Government.

The Policy Council supports the proposals and agrees that if they can be agreed with the UK they would present a significant improvement in these processes, building on the work undertaken since the two Justice Committee reports. However, the Policy Council is mindful the proposals are yet to be discussed with the UK and that they will need to be acceptable to the Crown and the UK authorities, which may mean they require further consideration. It supports the suggestion that adequate resources should be committed to, and priority given to, the negotiation of these matters with a view to seeking to implement them in their entirety, as described in this Policy Letter.

The Policy Council 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:-

XV.- Whether, after consideration of the Policy Letter dated 4th November, 2015, of the Constitutional Investigation Committee, they are of the opinion:-

1. To approve the objectives outlined in paragraphs 6 and 7 in that Policy Letter relating to: the granting of Royal sanction; the extension of international agreements; and the entering into agreements under entrustment.

2. To direct the Policy Council, and its successor Committee, to liaise with the States of Alderney, Chief Pleas of Sark and the States of Jersey, and negotiate with the UK authorities proposals to seek to implement these objectives, and to do so before 2020.
3. To direct the States Assembly and Constitution Committee to investigate the possibility of amending the Reform (Guernsey) Law 1948 to require the referral of certain matters to the States of Deliberation relating to UK Acts of Parliament which have direct effect or are to be extended to Guernsey by Order in Council, and bring any proposals before the States thereon.
4. To dissolve the Constitutional Investigation Committee on 30th April 2016.
5. To direct the Policy Council, and its successor Committee, to prepare a business case to establish a treaty management function in the External Relations team at the Policy Council and its successor body.

REQUÊTE

RECIPROCAL HEALTH AGREEMENT WITH THE UNITED KINGDOM AND THE EUROPEAN UNION

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation SHEWETH THAT:-

1. The Reciprocal Health Agreement (RHA) between the UK and the Crown Dependencies existed from 1976 to 31 March 2009. The UK gave notice of its intention to end its RHAs with the Crown Dependencies on the grounds that paying health-related charges to the islands benefited only a small number of UK residents and did not represent value for money. Both Jersey and the Isle of Man subsequently established RHAs.
2. In Guernsey, there have been public and political calls for the States of Guernsey to enter into a new RHA with the UK. More recently, there have been changes to the emergency care available to Guernsey residents visiting the UK which are more restrictive.
3. The RHAs with Jersey and the Isle of Man hinge on immediate and necessary treatment. In these agreements immediate and necessary treatment is defined as “treatment the need for which arose during the visit and comprises –
 - (a) diagnosis of symptoms or signs occurring for the first time after the Visitor’s arrival in the Territory concerned; or
 - (b) treatment which, in the opinion of the medical or dental practitioner employed by or providing Health Services (pursuant to the Relevant NHS Provisions if and to the extent applicable), is required promptly for a condition which –
 - (i) arose after the Visitor’s arrival in the Territory concerned;
 - (ii) became acutely exacerbated after the Visitor’s arrival; or
 - (iii) but for the treatment would be likely to become acutely exacerbated after the Visitor’s arrival.”
4. Under the previous agreement, the UK paid approximately £500,000 per annum to Guernsey. This payment ceased and all UK visitors needing medical treatment are treated as private patients. The position of the UK is that RHAs should not require any transfer of funds. NO MONEY CHANGES HANDS.
5. In 2010 HSSD received income of £300,000 for treating UK visitors to Guernsey. The Ambulance and Rescue Service received approximately £30,000. The latest estimate is that uninsured UK visitors are charged in the region of £400,000-£500,000 per annum.
6. The re-introduction of a RHA with the UK would be dependent on identifying funding of circa £400,000-£500,000 per annum. This is a formula-led amount.
7. The benefits of a RHA with the UK would be:
 - (i) enhanced reputation (not “the odd one out”);

- (ii) social inclusion (ability to travel off-island) for those with chronic conditions of all ages who are unable to obtain medical insurance or who cannot afford high premiums;
 - (iii) more competitive tourism product for those who cannot obtain insurance for their conditions;
 - (iv) more convenient and economical business travel;
 - (v) a “safety net” for those short term visitors who might be impacted by policy exclusions such as minimum length of stay, mode of travel and accommodation occupied;
 - (vi) a level playing field with Jersey.
8. The absence of a RHA is an OBSTACLE to our competitive position and to Islanders with uninsurable chronic conditions. A RHA would be an initiative which falls within both Social and Economic Policy. It would put people first and enhance our competitive position. The annual cost is modest. It is proposed that a RHA is funded from C&E’s Tourism Budget as a RHA is, in part, of benefit to tourism and commerce. The Budget Report for 2016 shows C&E identifying a sum of £2.746m for “Marketing and Tourism”.
9. The European Health Insurance Card (EHIC) facilitates travel within the EU. The Requerants believe Policy Council should enquire as to whether Guernsey could join the scheme and on what terms or, alternatively, to evaluate the possibility of a RHA with the EU.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to resolve:

- 1. To agree to the introduction, at the earliest opportunity, of a Reciprocal Health Agreement with the United Kingdom to be brokered by the Health and Social Services Department/Policy Council (or their successors).
- 2. To direct the Policy Council (or its successor) to explore the possibility of joining the European Health Insurance Card (EHIC) scheme or a Reciprocal Health Agreement with the European Union.
- 3. To direct the Commerce and Employment Department (or its successor) to re-prioritise its Marketing and Tourism budget to provide funding for a Reciprocal Health Agreement.

AND YOUR PETITIONERS WILL EVER PRAY
GUERNSEY

This 27th day of October 2015

Deputy J Kuttelwascher
Deputy H J R Soulsby
Deputy P R Le Pelley
Deputy M K Le Clerc
Deputy S A James M.B.E.
Deputy D A Inglis
Deputy R Conder

(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, Commerce and Employment Department, Social Security Department and the Treasury and Resources Department.

The Departments have responded as follow:

Health and Social Services Department

At its Board meeting of the 18th November 2015, the Health and Social Services Department Board considered the Requête on Reciprocal Health Agreement (RHA), which has been laid by Deputy Kuttelwascher.

At present, Guernsey is the only Crown Dependency which does not have a Reciprocal Health Agreement with the UK; this has been the situation since 2009. The Board agreed to the following position:

- a) That the responsibility for the RHA was very firmly within its mandate.
- b) That negotiating a new RHA was a desirable outcome and possibly the most cost and service efficient way of achieving the objective of giving islanders free access to emergency healthcare in the UK when needed.
- c) That the re-instatement of an RHA was an HSSD priority that it had been unable to prioritise for investment due to the loss of revenue it would incur and the consequent budgetary impact.
- d) Those deputies who are also members of the HSSD board who had signed the Requête had done so in support of this policy position but without the full knowledge of the level of income, as well as debt, accruing to the Department from UK visitors who become patients. There is also uncertainty as to the impact that the introduction of an RHA would have on the amount of income received and other factors that could mitigate that loss.
- e) The Board did agree the source of funding for an RHA agreement was a decision for the States to make, should it choose to support its re-instatement.
- f) The European Health Insurance Card (EHIC) would be a welcome additional support to Guernsey travellers, but the Board was very unsure if this would be negotiable with the EU given our limited size and the limited benefit to the EU given the small number of their citizens travelling to Guernsey.
- g) The Board was also cognisant of the amendment laid by Deputy Fallaize and approved in the October States meeting, which tasks Commerce and Employment and the Social Security Department to explore ways of restoring an agreement with the UK NHS, using the Health Fund of SSD, to the benefit Guernsey residents travelling to the UK so they can have access to free health care if needed.

HSSD is therefore in strong support of restoring the RHA should funding become available to do so. It would be pleased to work closely with the Policy Council to negotiate an RHA agreement with the UK if so directed. It is for the States to decide how the RHA could be funded going forward.

Paul Luxon
Heath and Social Services Minister

Commerce and Employment Department

In accordance with Rule 17(2) of the Rules of Procedure of the States of Deliberation, the Chief Minister has requested any views, of Commerce and Employment Department (CE), on the subject matter of this Requête.

The members of the Board have reserved the right to reply on an individual basis and as a Board they have given the following response:

Whilst the Commerce and Employment Department is not in principle against the reinstatement of a Reciprocal Health Agreement (RHA), it is unanimously against the proposal to fund the RHA from the Departments' Marketing and Tourism Budget.

The tourism industry accounts for c.4% of GDP (c.£108 million), and accounts for approaching 8% of those employed on the island. The industry has seen steady growth over the past three years, and 2015 year to date numbers for Total Staying Visitors and Bed Nights in commercial accommodation are at their highest level since 2012 (Guernsey Q3 Travel Exit Survey 2013-2015).

During 2014, the Commerce and Employment's Marketing and Tourism Unit (MT) together with the Chamber of Commerce Hospitality and Tourism Sub-Group jointly developed the ten year Guernsey Tourism Strategy 2015-2025. The strategy document includes clear growth objectives for the industry of 30% over the next ten years; it sets out five key strategic aims and includes 22 action plans for growth. This document supports the wider ambitions of the Islands' Economic Development Framework.

It is the strongly held opinion of CE members, together with members of the Tourism Trade and Industry, that the proposed funding of the RHA from the MT budget will severely undermine the effectiveness and reach of MT's marketing activity and campaigns, and the future growth plans for tourism. The resulting negative impact on visitor numbers which will also put at risk the long term sustainability of strategic air and sea links to the island. The sustainability of air routes in particular is reliant on the volumes of inbound leisure and business visitors.

The clear remit and mandate for the Commerce and Employment's Marketing and Tourism Unit is to 'Effectively **advertise** and **promote** Guernsey as a holiday destination, to its core target markets, and to support the trade and industry in **promoting** the Guernsey product offering'. It is not to subsidise the cost of other States initiatives, infrastructure or capital projects, that may or may not have an impact on tourism.

Diverting MT budget to fund the reinstatement of a RHA is wholly inconsistent with the Department's mandate.

There is absolutely no evidence that the absence of a RHA has had a material negative impact on tourism, or that the reinstatement of a RHA will have a material positive impact on tourism.

A RHA is not considered by CE, or the Tourism Trade and Industry to be a priority for tourism. The attached petition and letters to reject the Requête are signed by the Chamber of Commerce Hospitality and Tourism sub group, the largest tour operators serving the island, and the islands main accommodation providers.

Cannibalising, what in effect would be, 25% of MT's budget to fund the RHA will have serious implications on its ability to effectively carry out its mandated responsibility. In simple terms redirecting c£500,000 of its discretionary (non-headcount and non-statutory responsibilities budget) will mean:

- MT will have to cut 61% of its £815,000 advertising media budget which will mean no budget to fund TV, Radio and Digital Advertising, leaving very limited press advertising only.

Or

- MT will have to cut 88% of its £568,000 Marketing Communications budget which will mean it will have to cut the services of its Creative agency, Print management agency and Exhibitions agency. It will have to cancel all representation at consumer exhibitions in the UK and Europe. It will have to cancel the production of its printed brochure, which currently generates £154,000 advertising revenue, and it will have to cancel 90% of all other printed items (guides, leaflets, etc.).

Or

- MT will have to cut 97% of its Trade and PR budget which will mean no budget to work with and support the Trade (who account for c30% of Staying visitors), to secure seasonal charters from Holland, Germany, Austria and Switzerland, support the Cruise Industry, to attend international trade and cruise exhibitions and no budget to fund the services of its PR agency, which shows a c£5 million media value return.

During these challenging and highly competitive times, when a strong tourism industry is vital to help support a strong diversified economy and help sustain and grow the air and sea link services vital to the island, Tourism should be afforded all available monies to market and promote Guernsey in collaboration with the Trade and Industry. The CE Board is also actively considering making a further request to the Economic Development Fund, for additional funding to support MT's 2016 campaign plans, and feel MT should certainly not have to face the prospect of the proposed sizable reduction in budget, where the consequences have not been considered.

Kevin A Stewart
Minister

Social Security Department

Thank you for your letter of 10 November 2015.

The Social Security Department will not be meeting in the brief interval during which a reply is requested. However, as three of the Members of the Department are signatories to the Requête it is clear that a majority of the Department wishes this matter pursued.

I have established from correspondence with the Members, that the absence of a reciprocal health agreement with the UK is not known to have caused issues relevant to the mandate of the Department. The support of individual Members for the Requête is therefore not in connection with social security matters.

A H Langlois
Minister

Treasury and Resources Department

The Treasury and Resources Department is, in accordance with its mandate, commenting on the resource implications of this Requête. Whilst there would undoubtedly be benefits from the reintroduction of a Reciprocal Health Agreement with the United Kingdom, this has not been considered by the Health and Social Services Department to be a priority area for allocation of its budget.

It is understood that the costs will be in the region of £500,000 per annum and would largely arise from the foregoing of income currently raised from treating UK patients. However, there can be no certainty on this figure until such time as negotiations are held with the UK authorities to determine the arrangements for any Reciprocal Health Agreement including consideration of the level and scope of treatment to be provided thereunder.

Furthermore, pending the development of a formal and agreed method for prioritising services and spending across the States as a whole means that it has not been possible to determine whether this is a corporate priority and funding should be made available by reducing or ceasing some current services which are considered to be lower priority. Although this Requête crudely attempts to identify funding, it does so in isolation and does not consider the relative priority of the reintroduction of the Reciprocal Health Agreement compared with other service developments. Such prioritisation should include consideration of the resource implications of implementing the recommendations arising from the work of the major policy initiatives which are due to be considered by the States including the Social Welfare Benefits Investigation Committee, Supported Living and Ageing Well Strategy and the Children and Young People's Plan.

Deputy Kuttelwascher absented himself from the Board's discussion on this Requête.

Gavin St Pier
Minister

(N.B. In accordance with Rule 17(2) of the States of Deliberation, the Policy Council has consulted with all those parties particularly interested in the prayer of this Requête.

Notwithstanding that this consultation shows support for the reinstatement of a Reciprocal Health Agreement (RHA) from the Health and Social Services Department and from the Social Security Department, this is unsurprising given that three members of each board are Requête signatories.

For its part, the Policy Council considers the Requête ill-conceived and ill-timed, particularly given its submission immediately after an amendment proposed by Deputy Fallaize was debated and agreed by the States, commissioning an investigation into its reinstatement to assist Islanders needing health care while visiting the UK.

Although Deputy Kuttelwascher's Requête goes further and addresses the position of UK visitors requiring treatment in Guernsey, the Commerce and Employment Department advises that: *'There is absolutely no evidence that the absence of a RHA has had a material negative impact on tourism, or that the reinstatement of a RHA will have a material positive impact on tourism'*.

The Policy Council cannot, therefore, support committing the States to revenue expenditure of a yet indeterminate sum (given that the level and scope of the treatments to be provided would need to be negotiated and agreed) without, as the Treasury and Resources Department points out, any prior and proper consideration of how this expenditure should be prioritised and funded. (In respect of the latter, the Policy Council agrees with the Commerce and Employment's views on the inappropriateness of funding an RHA from its Marketing and Tourism budget).

Finally, with regard to the European Health Insurance Card (EHIC) scheme, initial work undertaken by the Channel Islands Brussels Office (CIBO) suggests that, as it stands, it would not be possible for Guernsey to join this scheme, and that any such agreement would have to be separately negotiated with the EU.

For all the above reasons, the Policy Council advises the States to reject each of the prayers of the Requête.)

The States are asked to decide:-

XVI.- Whether, after consideration of the Requête dated 27th October, 2015, and signed by Deputy J Kuttelwascher and six other Members of the States, they are of the opinion:-

1. To agree to the introduction, at the earliest opportunity, of a Reciprocal Health Agreement with the United Kingdom to be brokered by the Health and Social Services Department/Policy Council (or their successors).

2. To direct the Policy Council (or its successor) to explore the possibility of joining the European Health Insurance Card (ECIH) scheme or a Reciprocal Health Agreement with the European Union.
3. To direct the Commerce and Employment Department (or its successor) to re-prioritise its Marketing and Tourism budget to provide funding for a Reciprocal Health Agreement.

POLICY COUNCIL**ANNUAL INDEPENDENT FISCAL REVIEW FOR 2015**

The Policy Council wishes to include as an appendix to this Billet d'État the attached letter from Professor Geoffrey Wood together with the Annual Independent Fiscal Policy Review for 2015. The Review has been printed separately and is being circulated to States Members together with this Billet d'État.

The Review is also available at the following pages on the States website;
(<http://www.gov.gg/annualindependentfiscalreview>).

J P Le Tocq
Chief Minister

9th November 2015

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St. Peter Port
GY1 1FH

2nd November 2015

Dear Deputy Le Tocq

Annual Independent Fiscal Review

It is with much pleasure that I enclose the Annual Independent Fiscal Policy Review for 2015.

This year's review is the sixth in the series, the fourth which I have authored, and the first for which I have been joined by Dr Andrew McLaughlin as co-author.

Once again the States should be commended on the control of expenditure that they continue to show. However, this year's review highlights the shortfall in revenues expected for 2015 and acknowledges the difficult position the States find themselves in with the setting of Budgets for 2016. The solutions presented, while expedient in the short-term, should be considered temporary. In the long-term the States should be seeking a sustainable solution to both the elimination of the underlying deficit position and the provision of adequate funding for the capital program.

The States are clearly well aware of the long-term expenditure challenges that they face and it is evident that a substantial amount of research has already been done to examine these matters in Guernsey. If the core principle of "long-run permanent balance" is to be achieved then progression of the work that has already begun is essential. Andrew and I would reiterate our opinion that, in the face of both an increasing cost base and the likelihood of a steady reduction in the working age population over the coming decades, it is important that the States continue to review the services they provide and the way they are delivered. Long-term cost savings at the margin across the board are unlikely to be enough to ensure fiscal stability, and structural change to service provision will likely prove necessary.

Should you see fit, I would be happy for the Review to be published as an Appendix to a forthcoming Billet d'État.

Yours sincerely



Prof. Geoffrey Wood
Enc.