

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *for the* ENVIRONMENT & INFRASTRUCTURE

THE OPEN MARKET HOUSING REGISTER (GUERNSEY) LAW, 2016,
PROPOSALS FOR THE MAINTENANCE OF THE OPEN MARKET HOUSING REGISTER

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'The Open Market (Guernsey) Law, 2016, Proposals for the Maintenance of the Open Market Housing Register' dated 19 January 2017, they are of the opinion:-

1. To agree that the Open Market Housing Register should be maintained in electronic form only, and should be available for inspection by the public by way of an on-line search facility accessed from the States of Guernsey website;
2. To agree that the owner of a property inscribed in the Open Market Housing Register should be under a duty to notify the Committee in writing if he intends to effect any alteration to the property, whether structural or by way of change of use, at least seven days before it is proposed that the work commences, together with such information, plans and other documents as may be necessary to illustrate or clarify the alteration; and consequently
3. To direct the preparation of one or more Ordinances in accordance with the provisions of sections 24 and 32 of the Open Market Housing Register (Guernsey) Law, 2016, to give effect to Recommendations 1 and 2 above, including any necessary consequential and incidental provision.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

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THE OPEN MARKET HOUSING REGISTER (GUERNSEY) LAW, 2016,
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The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

19 January 2017

Dear Sir

1 Executive Summary

- 1.1 In March 2016, following debate in July 2015¹, the States of Deliberation approved the *Projet de Loi* entitled the Open Market Housing Register (Guernsey) Law (“the Law”)². The need for the Law, anticipated to come into force on 3rd April 2017, arises from the States’ desire to ensure a clear separation between: (i) the administration of the Open Market Housing Register; and (ii) matters concerned with who can reside in Guernsey.
- 1.2 Until now, both of these matters have been dealt with under one single piece of legislation: the Housing (Control of Occupation) (Guernsey) Law, 1994 (“The Housing Control Law”).
- 1.3 The primary purpose of the Law is to provide a mechanism via which to maintain a register of those properties designated as Open Market dwellings under the Housing Control Law. The Law maintains the four Parts of the Housing Register that exists today, albeit the States have agreed changes to the designations of some Houses in Multiple Occupation currently inscribed in Part A.
- 1.4 The Law empowers the States - at section 24 - to make provision by Ordinance relating to the maintenance of the Housing Register, in which definitive information relating to all Open Market dwellings is held.

¹ [“Policy Council – Open Market Housing Register” – Billet D’Etat XIV July 2015](#)

² [“The Open Market Housing Register \(Guernsey\) Law, 2016” – Billet d’État VI March 2016](#)

- 1.5 This Policy Letter outlines recommendations in respect of the information to be held in the Housing Register under the new Law, and recommends the preparation of an Ordinance under section 24 of the Law to give effect to those recommendations. This will ensure that, from the very outset of the introduction of the Law, the Housing Register is maintained in a standardised format.

2. Historic and legal context of the proposals

- 2.1 Under the Housing Control Law, it is necessary to maintain a physical Housing Register, and the information held in the Housing Register is prescribed by legislation dating from 1982. However, times have changed, and in recent years a searchable on-line copy of the Housing Register, accessible from the States of Guernsey website, has been provided in addition to the physical Housing Register, which is located in Housing Control's offices.
- 2.2 Unsurprisingly, since the advent of the ability to search the Housing Register on-line, the physical Housing Register, which is cumbersome to use and requires manual updating each time an Open Market dwelling changes ownership, is seldom viewed by the public. The on-line facility to search for properties listed on the Housing Register has proved to be the preferred source of information for professionals involved with Open Market property transactions, and for the general public.
- 2.3 The Law's imminent introduction makes now the opportune time to modernise the general requirements in respect of the public's access to the Housing Register, and the way in which the owners of properties inscribed in the Housing Register are required to notify changes that need to be recorded in it, and/or have the potential to impact upon a property's inscription.
- 2.4 The Law provides for the States, by Ordinance, to make provisions relating to the maintenance of the Housing Register. In this respect, section 24 of the Law provides:

"24. Subject to the succeeding provisions of this Law, the States may by Ordinance make such provision as they consider to be necessary or expedient for the maintenance by the Committee of the Register; and, without prejudice to the generality of the foregoing, they may in particular make provision for all or any of the following matters—

- (a) the form of the Register and the matters to be inscribed therein (including, for the avoidance of doubt, provision for the Register to be maintained solely in electronic form),*
- (b) the giving of prior notice to the Committee or any other person by the owner of a dwelling inscribed in the Register if the owner intends to effect any alteration, whether structural or by way of change of use, to*

the dwelling,

- (c) the availability of the Register for inspection (including, for the avoidance of doubt, provision for the Register to be available for inspection solely on a website or through some other electronic means), and*
- (d) such incidental and supplementary matters as the States consider it necessary or expedient to provide.”*

2.5 Thus the States need to consider:

- a) the form of the Housing Register;
- b) the information contained in the Housing Register;
- c) how the public should access the Housing Register; and
- d) requirements to notify the Committee of intended alterations, including changes of use, to a property inscribed in the Housing Register.

The remainder of this Policy Letter deals with each of the above in turn.

3. The form of, and public access to, the Housing Register

3.1 In line with the States’ “Service Guernsey” initiative, services are increasingly being delivered electronically where it is possible and appropriate to do so.

3.2 The availability of the Housing Register on-line has a number of advantages over having only a physical Housing Register. These include: (i) the ability to access the Housing Register out of normal office hours; (ii) having the Housing Register available for multiple simultaneous enquiries; and (iii) allowing real-time updates to the information displayed to customers accessing the Housing Register, so as to ensure the information seen by those accessing the Housing Register is always current.

3.3 As the ability to search the Housing Register on line already exists, there is no additional overhead to continuing to provide this service. In light of this, and given that Housing Control reports that there are no more than one or two requests to view the physical Housing Register each year, there is little to recommend the continued maintenance of a physical Housing Register in addition to an electronic equivalent.

3.4 Thus the Committee recommends that the physical Housing Register becomes obsolete, and that, from the coming into force of the Law, the Housing Register is made available to the public in only an on-line searchable format.

4. The information contained in the Housing Register

4.1 The Committee proposes that the following information is maintained in respect of each property inscribed in the Housing Register:

- the Cadastre number (to assist with the identification of the property, including its physical location)
- the Housing Register reference number (for internal identification purposes)
- in which Part of the Housing Register the dwelling is currently inscribed (as this dictates who is automatically entitled to occupy the property under the Population Management (Guernsey) Law, 2016)
- the address of the property
- the name of the current owner(s)
- the current owner's address
- any additional information or remarks specific to that property's inscription (for example, for large estates, this might include information about buildings on the estate that are not included in the Housing Register inscription)

4.2 It is proposed that the above data should be made available via the on-line Open Market Housing Register search facility.

5. Requirements to notify the Committee of intended alterations, including changes of use, to a dwelling inscribed in the Housing Register

5.1 Historically, there has been a requirement for Open Market property owners to notify Housing Control of proposed alterations to the property. This is because certain changes, for example the sub-division of a property, have implications insofar as the inscription of that property in the Housing Register is concerned. Legislation³ currently requires the owner of a dwelling inscribed in the Housing Register who intends to alter that dwelling, whether structurally or by way of change of use, to inform Housing Control in writing at least seven days before the commencement of the work "of the fact and the nature and extent of the alteration together with such specifications, plans and elevations as may be necessary to illustrate or clarify the alteration".

5.2 It will continue to be necessary for the Committee to be informed of such changes to an Open Market dwelling for the reasons given above, and in the interests of ensuring

³ Section 6 of the Housing Control (Control of Occupation) (Implementation) Ordinance, 1982 (as amended).

a smooth transition to the new regime, it is proposed effectively to replicate the requirements of the current notification provision.

6. Change of ownership of a property inscribed in the Housing Register

- 6.1 In order to maintain the Housing Register's accuracy, historically, there has been a legal requirement for Housing Control to be notified when an Open Market property changes ownership. In the future it will continue to be necessary for the Committee to be aware of such changes so that the Register can remain accurate. However, there is already a legal requirement for the new owner to notify Cadastre within 28 days of a change in property ownership⁴, and the information held by Cadastre is already a matter of public record. In addition, Cadastre monitors records produced by Le Greffe in respect of any changes to title, so as to ensure that Cadastre's records are always complete.
- 6.2 Mechanisms are already in place to ensure that, in respect of Open Market properties, change of ownership information recorded by Cadastre is used to update the Housing Register. As such, placing an additional notification requirement on the new owners of Open Market properties serves only to place an extra and unnecessary administrative process on those owners, and so it is not proposed to continue to impose such a requirement when the new Law comes into force.

7. Resource and implementation plan

- 7.1 Other than the preparation of the necessary legislation, there are no direct resource implications arising from this Policy Letter. The policy approaches outlined in this Policy Letter will be implemented and administered by the Office of the Committee *for the Environment & Infrastructure* when the new legislation comes into effect, which is expected to be on 3rd April 2017.

8. Engagement and consultation

- 8.1 Advice has been sought from the Law Officers' Chambers about the contents of this Policy Letter.

9. Recommendations

The Committee *for the Environment & Infrastructure* recommends the States to endorse the policy approaches set out in this Policy Letter and, for the purposes of the Open Market Housing Register (Guernsey) Law, 2016: –

⁴ Section 16(1) of the [Taxation of Real Property \(Guernsey and Alderney\) Ordinance, 2007 \(as amended\)](#)

1. To agree that the Open Market Housing Register should be maintained in electronic form only, and should be available for inspection by the public by way of an on-line search facility accessed from the States of Guernsey website;
2. To agree that the owner of a property inscribed in the Open Market Housing Register should be under a duty to notify the Committee in writing if he intends to effect any alteration to the property, whether structural or by way of change of use, at least seven days before it is proposed that the work commences, together with such information, plans and other documents as may be necessary to illustrate or clarify the alteration; and consequently
3. To direct the preparation of one or more Ordinances in accordance with the provisions of sections 24 and 32 of the Open Market Housing Register (Guernsey) Law, 2016, to give effect to Recommendations 1 and 2 above, including any necessary consequential and incidental provision.

10. Committee Support for Propositions

10.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully,

B L Brehaut
President

M H Dorey
Vice-President

H L De Sausmarez
S T Hansmann Rouxel
S L Langlois