



BILLET D'ÉTAT

WEDNESDAY, 22nd MAY, 2019

VIII
2019

ELECTIONS AND APPOINTMENTS

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2. Election of Members of the Ladies' College Board of Governors, P.2019/30
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CONTINUED OVERLEAF

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BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **22nd May, 2019** at **9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey

30th April, 2019

**ELECTION OF THE PRESIDENT OF THE
DEVELOPMENT & PLANNING AUTHORITY**

The States are asked:

To elect a sitting Member of the States as President of the Development & Planning Authority to complete the unexpired term of office (that is to the 30th June 2020) of Deputy J. A. B. Gollop who has resigned that office, and whose letter of resignation is appended hereto, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation.

[N.B.]

1. Pursuant to the Mandate of the Development & Planning Authority, neither the President nor any member of the Authority shall be the President or a member of the Policy & Resources Committee or the President or a member of the Committee *for the* Environment & Infrastructure.
2. **Pursuant to paragraph 4 of Rule 16 of The Rules of Procedure of the States of Deliberation and their Committees the election will be conducted as follows:**
 - (a) *The Presiding Officer will invite Members to propose eligible candidates and another Member must second each nomination;*
 - (b) *In respect of each candidate in turn, the Presiding Officer will invite first the proposer to speak for not more than five minutes following which the candidate may speak for not more than ten minutes. Thereafter, if there are two or more candidates, he will allow Members to question the candidates, subject to the provisos in the Rules.]*

LETTER FROM DEPUTY JOHN GOLLOP

Monday 15th April 2019

The Bailiff and Presiding Officer of the States of Deliberation,

Sir Richard Collas,

The Royal Court Chambers

FAO The Bailiff's Secretary

Dear Sir Richard,

It is with considerable regret, mixed thoughts and emotions that I write to tender my resignation as the current President of the D.P.A., the States Development and Planning Authority to take effect as soon as possible practically.

I thank my DPA team and staff for the past three years which have included the successful implementation of the Island Development Plan, an Annual Monitoring Report and other successful innovations. I now believe the time is right for me to move onto other political and personal challenges, and as a critical scrutineer and backbencher.

I need for health reasons to take a reduction in workload for the next few months to spend more family time, and recuperate from a period of illness. I realise I do not have the fitness, material resource, robust strength, time, support and energy to lead an increasingly contentious high profile principal political role in a new and different direction.

But after many months of struggling with my political beliefs and conscience I realise the strain of co-ordinating and balancing by consensus an organisation whose policies and executive decisions and methods of working, I personally do not always fully agree with, an impossible challenge.

I feel as a matter of personal honour and political integrity to stay on in the role of President would be to risk significant damage to the reputation of the States, the highly able and professional planning service, the electorate and wider environmental landscape and community. I no longer feel comfortable fronting media releases and responding to questions and queries from States Member colleagues with collectively agreed answers, I deep down do not personally fully subscribe to, with passion and total conviction.

I hope the States clarifies the expectations of political governance for planning development decisions and policy regarding the amount of delegation, interpretations and decision making in terms of the balance between appropriate professional judgement and political adjudication.

Having led the Island Development Plan, I feel it inappropriate and unwise for me to boldly lead planning forward in a more acceptable pragmatic democratically accountable direction: that is another reason I have to resign.

I apologise for any mistakes and decisions some members of the public disagreed with during my term of office.

Yours sincerely,

Deputy John Gollop

**ELECTION OF MEMBERS OF THE
LADIES' COLLEGE BOARD OF GOVERNORS**

The States are asked:

- (1) To elect Advocate Caroline Chan who has been nominated by the Board of Governors as the Chairman of the Ladies' College Board of Governors to replace Mrs Kathryn Richards whose term of office will expire on the 31st May 2019 and who does not seek re-election.

N.B. Nominations cannot be made from the floor of the Assembly.

- (2) To elect a member of the Ladies' College Board of Governors, who need not be a member of the States, to replace Advocate Caroline Chan whose term of office will expire on 31st May 2020, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation, as set out in Section 1 of The Rules of Procedure of the States of Deliberation and their Committees.

N.B. Nominations may be made from the floor of the Assembly.

- (3) To elect a member of the Ladies' College Board of Governors, who need not be a member of the States, to replace Mrs Catharine Walter whose term of office will expire on 31st May 2019, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation, as set out in Section 1 of The Rules of Procedure of the States of Deliberation and their Committees.

N.B. Nominations may be made from the floor of the Assembly.

- (4) To re-elect Dr Mary Short for a further term as a member of the Ladies' College Board of Governors, who has been nominated in that behalf by the Committee for Education, Sport & Culture, on the expiry of her current term of office on 31st May 2019.

N.B. Nominations cannot be made from the floor of the Assembly.



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The Bailiff
Bailiff's Chambers
The Royal Court House
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27th March 2019

Dear Sir

I am writing at the request of the Board of Governors of The Ladies' College which would be grateful if you would request the States to appoint Advocate Caroline Chan as Chairman of the Board in place of Mrs Kathryn Richards whose term of office ends on 31st May 2019 and who does not wish to stand for re-election. The Board wishes to express its sincere thanks to Mrs Richards for her service to the College over the last twenty years as a Governor and previously through a long association with the College.

The composition of the Board of Governors of The Ladies' College includes amongst its members "a Chairman who shall be nominated by the Board of Governors and appointed by the States". The Board now wish to nominate Advocate Chan as Chairman.

Advocate Chan has served as a Governor of The Ladies' College since June 2017, being one of two Governors appointed by the States. She is a Guernsey Advocate and is currently a partner with Mourant Ozannes. A summary CV is attached

As you are aware, the Board of Governors maintains a skills analysis of the Governors in order to ensure that the Board has a suitable range of skills and experience amongst its members. In so doing, the Board are mindful of the guidance of the Association of Governing Bodies in Independent Schools (AGBIS), of which the College is a member, about the range of backgrounds and skills that a Governing Body should ideally encompass. Advocate Chan has brought her legal expertise to the Board and the Board are grateful for this. They also believe that Advocate Chan is now the right person to lead their deliberations.

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Vice Principal, Bursar & Clerk to the Governors
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Advocate Chan (whose married name is Hodgson) has confirmed her willingness to act as Chairman of the Board and would be honoured if the States would act upon the nomination of the Board and appoint her to this position. Deputy Heidi Soulsby has agreed to be her proposer in the States.

Yours faithfully



Elizabeth Bridge

Clerk to the Governors

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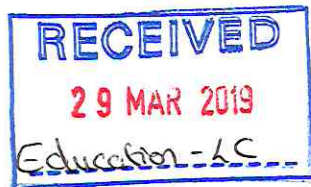
Advocate Caroline Chan

Advocate Caroline Chan is a Guernsey Advocate and a partner in the corporate law team at Mourant Ozannes.

After studying law at Oxford, Advocate Chan trained and qualified as an English solicitor with Allen & Overy and spent nine years with them in their Corporate Finance department, including a three year secondment to their Hong Kong office. Whilst on secondment, Advocate Chan was admitted as a Hong Kong solicitor (now non-practising).

On returning to Guernsey in 1998, Advocate Chan spent nine years at Ozannes, qualifying as an Advocate in 2003. After spending eight years with Ogier, where she became a partner in 2008, Advocate Chan re-joined Mourant Ozannes in 2015 and continues to practise across the corporate, funds, financing and regulatory sectors.

Advocate Chan is an Old Girl and a former Head Girl of The Ladies' College.



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27th March 2019

Dear Sir

I am writing at the request of the Board of Governors which would be grateful if you would request the States to appoint a member of the Board to complete the term (until May 2020) of Advocate Caroline Chan who the Board now wish to appoint as their nominee to the position of Chairman of the Board of Governors.

Advocate Chan is currently one of two Governors appointed by the States and the Board would like to recommend Mr Brian Acton to the States as a suitable candidate for appointment in her stead.

As you are aware, the Board of Governors maintains a skills analysis of the Governors in order to ensure that the Board has a suitable range of skills and experience amongst its members. In so doing, the Board review the guidance of the Association of Governing Bodies in Independent Schools (AGBIS), of which the College is a member, which recommends that a Board should have, amongst other skills and competencies, someone with marketing skills.

Mr Acton has had an extensive career within the Lloyds TSB Group in Guernsey, the ANZ National Banking Group in New Zealand and now the Butterfield Group in Guernsey which has given him a sound and thorough knowledge of all aspects of marketing and business development which the Board would find particularly useful. His overall management skills gained from his career will also contribute further to the Board. A summary CV is attached.

Mr Acton has confirmed his willingness to continue to act in this capacity and would be honoured if the States would act upon the recommendation of the Board and appoint him to the Board. Deputy Heidi Soulsby has agreed to be his proposer in the States.

Yours faithfully


Elizabeth Bridge
Clerk to the Governors

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Mr Brian Acton

Mr Acton started his career with Lloyds TSB in Guernsey working within the trust and private banking environment. He held a number of senior positions within the organisation, latterly as Island Director Lloyds TSB Guernsey where his responsibilities included marketing all Private Banking services and managing the activities of the sales team and relationship managers. In addition, his duties involved primary responsibility for relationships with the regulators in Guernsey.

In 2005, Mr Acton took on a regional management role with ANZ National Bank in Christchurch, New Zealand where he was involved in the promotion, development and provision of a wide range of banking and asset management services. He was also a member of the group which held corporate governance responsibilities for the business nationwide.

On his return to Guernsey, Mr Acton joined Butterfield Bank where he has held a number of marketing and business development roles and also had wider management and leadership responsibilities. He is currently Senior Advisor to Butterfield Trust and is actively involved in leading the Butterfield Global Trust Group's business development activities in Asia.

Mr Acton has lived in Guernsey since childhood.



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27th March 2019

Dear Sir

I am writing at the request of the Board of Governors of The Ladies' College which would be grateful if you would request the States to appoint a member of the Board since Mrs Catharine Walter's current term of appointment ends on 31st May 2019.

Mrs Walter is currently one of two Governors appointed by the States and the Board would like to recommend her to the States as a suitable candidate for appointment for a further term.

At the time of Mrs Walter's appointment to the Board, the Board identified that it would be beneficial to have a Governor with property and estates experience, particularly given the College's acquisition of a lease over its site and the consequent capital investment required under the terms of that lease. Mrs Walter has extensive property experience as a director of Walter Property Limited and of a number of property funds. Mrs Walter trained originally as a nurse and has worked in the UK and locally in hospital administration and Practice Management. Her experience also includes dealing with employment matters, matters relating to corporate governance and contract negotiation. As hoped, the Board have benefitted from Mrs Walter's experience over the period of her current appointment as a Governor and now wish to retain this expertise.

Mrs Walter has confirmed her willingness to continue to act in this capacity as a Governor and would be honoured if the States would act upon the recommendation of the Board and appoint her to the Board for a further term.

Mrs Walter's CV is attached and Deputy Heidi Soulsby has agreed to be her proposer in the States.

Yours faithfully


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Mrs Catharine Walter

Mrs Walter has been a Governor of Ladies College since June 2016 having previously been an Associate Governor. She is an executive director of Walter Property Limited, a family owned property investment company founded in Guernsey by her great grandfather over eighty years ago. She became involved in the management of the company in 1987. Since her appointment to the Property Committee of the Company she has been intimately involved in negotiating leases, development contracts and various acquisitions and disposals. Since she assumed executive responsible for strategy in 1998, the company has significantly increased in value by acquisition of property and development of new and existing assets. Catharine serves as a director on a number of other Property Development and Investment companies in Guernsey and Jersey.

Since 2005 Mrs Walter has been a non-executive director and Chairman of a number of Guernsey based property funds with assets in the UK and abroad. This includes involvement in development of property in several jurisdictions.

Before moving back to Guernsey in 1986, Mrs Walter ran a large medical practice in London. She was a lecturer in General Practice Administration and had a book published by Pitmans for medical support staff. She worked in hospital administration at Kings College Hospital and in occupational health at Simpsons in Piccadilly. She trained as a nurse at Guy's Hospital in London.

From 1986 to 2005 Mrs Walter was the Practice Manager of the largest medical practice in the Island responsible for advising on the day-to-day running and business management. She was responsible for corporate governance within the practice and set up risk management and reporting systems. She worked as a consultant for the Island Medical Centre in Alderney until 2015 and completed the development of a new Health Centre premises on that Island.

Mrs Walter is the Honorary Secretary of the local Division of the British Medical Association and has been involved in various negotiations with Government Departments in respect of terms of employment for the medical professionals locally. She has also been responsible for negotiating contracts for medical services with the Health and Social Services Department and the Home Department. During the past three years Mrs Walter has been appointed a Director of Drug Concern and also a Director of a new insurance based company helping to provide a means for elderly people to fund residential care when they become unable to live independently in their own home. In January 2019 she was appointed to the Board of a new Private Investment Fund which has been set up by Ravenscroft. This fund will be investing in property for development in both Guernsey and Jersey.



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21 MAR 2019

Deputy Matt Fallaize
President
Office of the Committee for Education, Sport & Culture
Sir Charles Frossard House
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GY1 1FH

19 March 2019

Dear Deputy Fallaize

EDUCATION NOMINATED GOVERNOR

At the end of May this year, as you will be aware, Dr Mary Short's first term of office as a Governor of The Ladies' College comes to an end. Dr Short is one of the two Education Department nominated Governors and, as such, The Committee for Education, Sports & Culture now need to consider their nomination for the next term of office. Dr Short has indicated her willingness to stand as a Governor for a further term and the Board are supportive of this and would be grateful if the Committee would support the Board's recommendation and nominate Dr Short for a second term as a Governor.

At the time of Dr Short's original appointment to the Board, the Board had identified the need for a Governor who had a broad appreciation of educational developments and a depth of experience to be a critical friend of the College and a source of advice about good practice to the Governors. As a school which works to provide the best opportunities for girls, a member of the Girls' School Association was considered to be the most appropriate.

Dr Short, as Headmistress of St Helen's School, Northwood in London was identified as a suitable candidate at the time. It was felt that her experience from her past and current roles would bring the required educational knowledge and current best practice to the Board, in particular as it related to a girls' school providing education to students from 3 to 18 as both her current school and The Ladies' College do.

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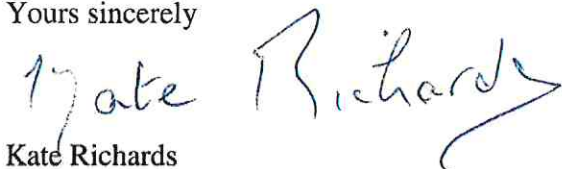
Since her appointment, the Board have been grateful for Dr Short's contribution which has proved how invaluable her educational background is to the governance of the College and which complements the other Governors on the Board to ensure a full range of backgrounds and skills. As such, the College is able to meet the guidance of the Association of Governing Bodies in Independent Schools (AGBIS), of which the College is a member, about the range of backgrounds and skills that a Governing Body should ideally encompass.

I attach a summary CV in respect of Dr Short for your information and do hope that the Committee will feel able to support her nomination for a second term.

We understand that the Bailiff's office need to receive any such nomination by 4th April in order for the matter to be considered by the States of Deliberation in their meeting of 22nd May.

Please do not hesitate to contact me should you require any further information at this stage.

Yours sincerely

A handwritten signature in blue ink that reads "Kate Richards". The signature is fluid and cursive, with a long, sweeping tail on the "s" of "Richards".

Kate Richards

Chairman of the Board of Governors

Dr Mary Short

Dr Short is currently Headmistress of St Helen's School, Northwood in London, a leading independent girls' day school and member of the Girls' Schools Association (GSA), which provides education for girls aged three to eighteen.

Dr Short is also a Team Inspector for the Independent Schools' Inspectorate, Deputy Chairman of the Girls' School Association Education Committee and the Girls' School Association's representative on the Joint Council for Qualifications.

Dr Short has a degree from the University of London in Medieval and Modern History and a Doctorate from the University of Cambridge. Prior to joining St Helen's School Dr Short taught at City of London School (Boys), St Paul's Girls' School and Haberdashers' Aske's School for Girls. In these posts she has variously been responsible for teaching history and politics, acted as a Form Tutor and Head of History and more recently as Deputy Head with a responsibility for pastoral care, child protection, staff mentoring, co-curricular activities and university preparation amongst other matters.

At St Helen's Dr Short has overseen the development of subjects and courses offered, improved academic results, a programme of building and the development of co-curricular activities offered to pupils.

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Committee *for*
Education, Sport & Culture

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The Presiding Officer
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5th April 2019

Dear Sir

Election of a Member of The Ladies' College Board of Governors

The Committee *for* Education, Sport & Culture wishes to put forward Dr Mary Short for re-election to The Ladies' College Board of Governors with effect from 1 June 2019.

Dr Short's re-election is supported by both the Committee and the College.

I confirm that I have seen Dr Short's Declaration of Interest and am satisfied that there is no conflict of interest in Dr Short continuing as a governor. Dr Short has confirmed her willingness to continue as a governor.

Dr Mary Short

Dr Short is currently Headmistress of St Helen's School, Northwood in London, a leading independent girls' day school and member of the Girls' Schools Association (GSA), which provides education for girls aged three to eighteen.

Dr Short is also a Team Inspector for the Independent Schools' Inspectorate, Deputy Chairman of the Girls' School Association Education Committee and the Girls' School Association's representative on the Joint Council for Qualifications.

Dr Short has a degree from the University of London in Medieval and Modern History and a Doctorate from the University of Cambridge. Prior to joining St Helen's School Dr Short taught at City of London School (Boys), St Paul's Girls' School and Haberdashers' Aske's School for Girls. In these posts she has variously been responsible for teaching history and politics, acted as a Form Tutor and Head of History and more recently as Deputy Head with a responsibility for pastoral care, child protection, staff mentoring, co-curricular activities and university preparation amongst other matters.

At St Helen's Dr Short has overseen the development of subjects and courses offered, improved academic results, a programme of building and the development of co-curricular activities offered to pupils.

Yours faithfully,



Deputy Matt Fallaize
President
The Committee *for*
Education, Sport & Culture

ADMINISTRATIVE DECISIONS (REVIEW) (GUERNSEY) LAW, 1986

CHAIRMAN AND DEPUTY CHAIRMAN OF PANEL OF MEMBERS

The States are asked:-

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

1. A Chairman of the Panel of Members, who shall be a sitting member of the States of Deliberation and who has held a seat in the States for a period of three years or more, to fill the vacancy which will arise on 1st June, 2019, by reason of the expiry of the term of office of Deputy Christopher Green, who is eligible for re-election; and
2. A Deputy Chairman of that Panel, who shall be one of the Deans of the Douzaines but who shall not have a seat in the States, to fill the vacancy which will arise on 1st June, 2019, by reason of the expiry of the term of office of Douzenier Richard Heaume MBE, who is eligible for re-election.

N.B. Nominations may be made from the floor of the Assembly.

(N.B. The Deans of the Douzaines are Douzeniers R L Heaume, MBE, M A Ozanne, G Guilbert, C E Goodlass, B E Gregg, R A V de Garis, M A Fooks, R A Henry, T R Oliver and A Sauvarin)

[This article is submitted for debate on the 22nd May 2019 pursuant to Rule 3 (2) of the Rules of Procedure of the States of Deliberation.]



Policy & Resources
Committee

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The Bailiff
The Royal Court
St Peter Port
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11th March 2019

Dear Sir

Re-election of Chairman and Deputy Chairman of the Panel of Members under the Administrative Decisions (Review) (Guernsey) Law, 1986

In accordance with section 4(3) of the Administrative Decisions (Review) (Guernsey) Law, 1986 ("the 1986 Law"), the terms of office for the Chairman of the Panel of Members, Deputy Christopher Green, and Deputy Chairman, Mr Richard Heaume, MBE, expire on 31st May 2019. Section 4(2) requires the States elect one of the Members of the States of Deliberation to be the Chairman of the Panel of Members and one of the Deans of the Douzaine to be Deputy Chairman.

It is my intention to propose Members to re-elect both Deputy Green and Mr Heaume. I believe that this may be the last appointment in the present form as the amendments to the 1986 Law approved by the States of Deliberation in March 2016 are currently with the Ministry of Justice.

Deputy Green has served at the Panel's Chairman since June 2016, following his re-election to the States of Deliberation. Mr Heaume has served as the Deputy Chairman of the Panel of Members since 2011 and is highly experienced at dealing with administrative reviews. Their re-election would provide continuity to this important function.

Mr Heaume has confirmed to me that he does not have a conflict of interest in seeking re-election to this post and he would be willing to serve in this role for another year. Should he be elected, he has also confirmed to me that he would naturally recuse himself from dealing with a particular review in which he had a perceived or actual conflict of interest.

Mr Heaume has a long record of public service in Guernsey, including over 40 years as a member of the Forest Douzaine. He is the Dean of the Forest Douzaine, and, as the

Island's longest serving Douzenier, Mr Heaume is Dean of Deans and a member of the Douzaine Council and Douzaine Liaison Group.

Mr Heaume is perhaps best known for his involvement of ensuring the Island's "Occupation Story" is accurately told and recorded. In 1961, he was one of the founders of the Channel Islands Occupation Society and, in 1966, he opened the German Occupation Museum which boasts an extensive collection of original occupation items and documents including many extremely rare pieces.

In June 2010, Mr Heaume's voluntary work, including his role in promoting local history, was recognised by Her Majesty when she awarded him an MBE.

Thank you for your assistance in this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G St Pier', with a stylized flourish at the end.

Deputy G St Pier
President

ORDINANCES LAID BEFORE THE STATES

THE INTERNATIONAL TRADE AGREEMENTS (IMPLEMENTATION) (BAILIWICK OF GUERNSEY) LAW, 2018 (COMMENCEMENT) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, “The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2019”, made by the Policy & Resources Committee on the 12th March, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance brings into force the International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018 on the 13th March, 2019.

The Ordinance was approved by the Legislation Review Panel on the 4th March, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE EUROPEAN UNION (AMENDMENT OF LEGISLATION) (BAILIWICK OF GUERNSEY) LAW, 2018 (COMMENCEMENT) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, “The European Union (Amendment of Legislation) (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2019”, made by the Policy & Resources Committee on the 26th March, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance brings into force the European Union (Amendment of Legislation) (Bailiwick of Guernsey) Law, 2018 on the 27th March, 2019.

The Ordinance was approved by the Legislation Review Panel on the 4th March, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

**THE IMPORT DUTIES (TARIFF AND RELATED PROVISIONS) (BAILIWICK OF GUERNSEY)
ORDINANCE, 2019**

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Import Duties (Tariff and Related Provisions) (Bailiwick of Guernsey) Ordinance, 2019", made by the Policy & Resources Committee on the 2nd April, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance provides for the imposition of import duty after the United Kingdom leaves the European Union in accordance with the terms of the Customs Arrangement entered into on 26th November 2018, pursuant to which the United Kingdom and the Crown Dependencies will be in a customs union after Brexit.

The Ordinance provides for the imposition of import duty by reference to the relevant UK regulations and other provisions establishing the tariff of customs duties (collectively termed "UK tariff regulations"). It provides that UK tariff regulations shall have automatic effect in the Bailiwick as they have in the United Kingdom, and requires certain details of UK tariff regulations to be published on the States of Guernsey website by the Committee for Home Affairs. It also provides that that Committee may disapply, or specify amendments to, UK tariff regulations as they shall have effect in the Bailiwick. It will be necessary for that power to be exercised in accordance with the terms of the Customs Arrangement, and that is reflected in the provisions of sections 3(4) and (5).

At section 4 the Ordinance also makes clear that no customs duties shall be chargeable in respect of goods imported directly from the United Kingdom or other Crown Dependencies.

The Ordinance was approved by the Legislation Review Panel on the 25th March, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

No. 18 of 2019

THE COMPANIES (PANEL ON TAKEOVERS AND MERGERS) (BREXIT) (GUERNSEY) REGULATIONS, 2019

In pursuance of section 11(10) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The Companies (Panel on Takeovers and Mergers) (Brexit) (Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 5th March, 2019 are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations are made in consequence of the withdrawal of the United Kingdom from the EU and replace, in Part XVIII A of the Companies (Guernsey) Law, 2008, references to the EU Takeovers Directive (Directive 2004/25/EC of the 21st April 2004 on takeover bids (O.J. No. L142 30.04.2004)), with references to the corresponding provisions of the UK Companies Act 2006. They also repeal certain provisions which will no longer be necessary.

These Regulations come into force on exit day, within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

No. 19 of 2019

THE COMPANIES (REGULATION OF AUDITORS) (BREXIT) (GUERNSEY) REGULATIONS, 2019

In pursuance of section 11(10) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The Companies (Regulation of Auditors) (Brexit) (Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 5th March, 2019 are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations are made in consequence of the withdrawal of the United Kingdom from the EU. They ensure that the definition of "regulated market" in the Companies (Guernsey) Law, 2008 continues to encompass both EU and UK regulated markets after the UK leaves the EU. They also substitute a new definition of "transferable securities" so that this will remain appropriate for both EU and UK market traded companies after the UK leaves the EU.

These Regulations come into force on exit day, within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

No. 21 of 2019

THE LIGHTING OF VEHICLES AND SKIPS (EXEMPTIONS) ORDER, 2019

In pursuance of Section 26(1) of the Lighting of Vehicles and Skips Ordinance, 1988, Section 11(1) of the Road Traffic (Disabled Persons) Ordinance, 1991 and all other powers enabling them in that behalf, the Lighting of Vehicles and Skips (Exemptions) Order, 2019, made by the Committee *for the* Environment and Infrastructure on 7th March 2019 are laid before the States.

EXPLANATORY NOTE

This Order makes provision for exemptions from the requirements of certain provisions of the Lighting of Vehicles and Skips Ordinance, 1988, as amended by the Lighting of Vehicles and Skips (Amendment) Ordinance, 2019.

This Order comes into force on the 29th March, 2019.

No. 24 of 2019

THE ROAD TRAFFIC (TRAILER REGISTRATION) REGULATIONS, 2019

In pursuance of Sections 2A, 2B and 4 of the Motor Taxation and Licensing (Guernsey) Law, 1987, Section 1 of the Road Traffic (Trailer Registration) Ordinance, 2019, and all other powers enabling them in that behalf, the Road Traffic (Trailer Registration) Regulations, 2019, made by the Committee *for the* Environment and Infrastructure on 7th March 2019 are laid before the States.

EXPLANATORY NOTE

These Regulations make provision for the registration of trailers which must be registered for the purpose of travelling in a Vienna Convention country. Such registration is mandatory for all trailers over 3,500 kilograms and commercial trailers over 750 kilograms. Provision is also made for non-commercial trailers over 750 kilograms to be registered at the option of their owners.

These Regulations come into force on the 29th March, 2019.

No. 27 of 2019

**THE CUSTOMS AND EXCISE (SAFETY AND SECURITY) (EXPORT)
(BAILIWICK OF GUERNSEY) REGULATIONS, 2019**

In pursuance of sections 14B and 79 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, The Customs and Excise (Safety and Security) (Export) (Bailiwick of Guernsey) Regulations, 2019, made by the Committee *for* Home Affairs on 18th March 2019, is laid before the States.

EXPLANATORY NOTE

These Regulations impose a requirement to submit safety and security exit summary declarations in respect of goods being exported from the Bailiwick to outside the United Kingdom, the Bailiwick, Jersey and the Isle of Man. They provide for some goods to be exempt from this requirement, and introduce a civil penalty regime for breaches of the regulations.

These Regulations come into force on exit day within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

No. 28 of 2019

THE LIQUOR LICENSING (FEES) (AMENDMENT) REGULATIONS, 2019

In pursuance of Section 84(4) of the Liquor Licensing Ordinance, 2006, The Liquor Licensing (Fees) (Amendment) Regulations, 2019, made by the Committee *for* Home Affairs on 18th March 2019, is laid before the States.

EXPLANATORY NOTE

These Regulations amend Schedule 4 of the Liquor Licensing Ordinance, 2006 which sets the relevant fees for liquor licences etc. These Regulations come into force on 1st June 2019.

No. 31 of 2019

THE COMPANIES (RECOGNISED STOCK EXCHANGES) REGULATIONS, 2019

In pursuance of section 537 of the Companies (Guernsey) Law, 2008, "The Companies (Recognised Stock Exchanges) Regulations, 2019", made by the Registrar of Companies on 25th March 2019, are laid before the States.

EXPLANATORY NOTE

These Regulations revoke and replace the Companies (Recognised Stock Exchanges) Regulations, 2009 ("the 2009 Regulations"). They update the reference in the 2009 Regulations to the European Directive on Markets in Financial Instruments 2004/39/EU ("MIFID") as this has now been repealed and replaced by Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EU and Directive 2011/61/EU ("MIFID II"). They also identify by name those regulated markets, within the meaning of MIFID II, for which the UK is the home Member State of the European Union, as those markets may cease to be regulated markets within the meaning of MIFID II upon the exit of the United Kingdom from the European Union. They make minor amendments to the names of some exchanges that were identified in the 2009 Regulations; update and amend the interpretation provisions and consolidate previous amendments to the 2009 Regulations.

A company which is listed on a recognised exchange is exempt from the beneficial ownership regime of Part XXIX of the Companies (Guernsey) Law, 2008.

These Regulations come into force on 29th March, 2019.

No. 32 of 2019

THE EUROPEAN UNION (MODIFICATION AND GENERAL PROVISIONS) (BREXIT) (BAILIWICK OF GUERNSEY) REGULATIONS, 2019

In pursuance of section 5(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The European Union (Modification and General Provisions) (Brexit) (Bailiwick of Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 26th March, 2019 are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations complement the provisions of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, and provide for the continued operability of the law in the case of a 'no deal' Brexit.

In particular, these Regulations provide that references to the EU or its Members States shall be read as including the UK in order to ensure the continued application to the UK of Preserved EU Law or EU-derived provisions in domestic law. The Regulations also allocate formerly EU functions contained in Preserved EU Law to committees in Guernsey, Alderney and Sark, as appropriate. Any provisions in Preserved EU Law which would place conditions or restrictions on the exercise of functions by the Bailiwick legislatures, or their committees,

are also removed. Similarly, any imposition of duties by Preserved EU law on Bailiwick legislatures, or their committees, is deemed by operation of the regulations to be a conferral of relevant powers.

These Regulations come into force on exit day within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

No. 33 of 2019

**THE COMMUNICATIONS, BROADCASTING AND WIRELESS TELEGRAPHY (BREXIT)
(BAILIWICK OF GUERNSEY) REGULATIONS, 2019**

In pursuance of section 5(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The Communications, Broadcasting and Wireless Telegraphy (Brexit) (Bailiwick of Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 26th March, 2019 are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations make provision in the Bailiwick consistent with that made in the United Kingdom by the Electronic Communications and Wireless Telegraphy (Amendment etc.) (EU Exit) Regulations 2019 and the Broadcasting (Amendment) (EU Exit) Regulations 2019. Made under section 5 of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, they amend Orders in Council extending to the Bailiwick certain provisions of the Broadcasting Acts 1990 and 1996, the Communications Act 2003 and the Wireless Telegraphy Act 2006 to give effect to changes made to those Acts in the United Kingdom in consequence of the United Kingdom's withdrawal from the EU.

These Regulations come into force on exit day within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

No. 34 of 2019

**THE BEES (IMPORTATION AND PREVENTION OF DISEASE) (BREXIT) (AMENDMENT)
(GUERNSEY) REGULATIONS, 2019**

In pursuance of section 5(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The Bees (Importation and Prevention of Disease) (Brexit) (Amendment) (Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 26th March, 2019 are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations amend the Bees (Importation and Prevention of Disease) Ordinance, 1973, to extend the provisions in that Ordinance relating to foul brood disease to other bee diseases and pests. It also confirms that such diseases are notifiable, enables the Committee to designate additional diseases and pests as being subject to the notification requirements, and empowers the Inspector to take action in relation to notifiable bee diseases and pests.

These Regulations come into force on 29th March, 2019.

No. 35 of 2019

THE ANIMAL HEALTH (BREXIT) (AMENDMENT) (GUERNSEY) REGULATIONS, 2019

In pursuance of section 5(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The Animal Health (Brexit) (Amendment) (Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 26th March, 2019 are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations amend the Animal Health Ordinance, 1996, and extend the application of that Ordinance to aquatic animals. Once amended, the Animal Health Ordinance will list various notifiable aquatic animal diseases and provide for the measures and actions to be taken with the aim of preventing and containing such diseases.

These Regulations come into force on 29th March, 2019.

No. 36 of 2019

THE EUROPEAN COMMUNITIES (FOOD AND FEED CONTROLS) (BREXIT) (GUERNSEY) REGULATIONS, 2019

In pursuance of section 5(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The European Communities (Food and Feed Controls) (Brexit) (Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 26th March, 2019 are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations are made in consequence of the withdrawal of the United Kingdom from the European Union.

These Regulations amend the European Communities (Food and Feed Controls) (Guernsey) Ordinance, 2016 to align it more closely with European Union (EU) and United Kingdom food and feed safety legislation, and to apply EU food and feed controls in Guernsey taking into account the United Kingdom's planned departure from the EU (Brexit).

The key amendments are: removal of exemptions from the requirement for certain food or feed business operators to obtain an approval; provision for Sark to be designated as part of "the Islands" for the purposes of exempting local producers who sell or supply only to local consumers; revised enforcement powers and procedures to align more closely with powers and procedures in food safety legislation in force in England; updating of references to EU Regulations; alignment of food temperature controls with the controls in force in England; provision for "approved examiners" and "designated laboratories" to be those examiners and laboratories qualified or appointed under food safety legislation in England; and provision for references in EU food and feed controls applied in Guernsey to have effect as if references to a Member State of the European Union, a competent authority, placing things on the market, or the Community or the European Union include a reference to Guernsey, as well as Alderney, Sark and any other country or territory, if prescribed by regulations made by the Committee for Health & Social Care.

These Regulations come into force on the 29th March, 2019.

No. 37 of 2019

**THE CASH CONTROLS (SPECIFIED AMOUNT) (BREXIT) (BAILIWICK OF GUERNSEY)
REGULATIONS, 2019**

In pursuance of section 5(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The Cash Controls (Specified Amount) (Brexit) (Bailiwick of Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 26th March, 2019 are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations are made in consequence of the withdrawal of the United Kingdom from the EU. They amend the definition of "specified amount" at section 1(3) of the Cash Controls (Bailiwick of Guernsey) Law, 2007 to ensure that legislative provision in the Bailiwick and the United Kingdom governing the control of movements of cash between the two remains consistent.

These Regulations come into force on exit day within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

No. 38 of 2019

THE EXPORT CONTROL (BREXIT) (BAILIWICK OF GUERNSEY) REGULATIONS, 2019

In pursuance of section 5(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The Export Control (Brexit) (Bailiwick of Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 26th March, 2019 are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations are made in consequence of the withdrawal of the United Kingdom from the European Union. These Regulations are designed to continue the free flow of trade between the Bailiwick and the UK, the rest of the British Islands and the European Union, while effectively continuing the existing export, transfer, technical assistance and trade controls in relation to dual-use and torture goods after this withdrawal.

Regulations 1 to 10 amend the Export Control (Bailiwick of Guernsey) Law, 2006 ("the principal Law").

Regulation 2 amends section 1 of the principal Law to clearly authorise the Committee for Home Affairs ("the Committee") to make orders to implement provisions of Community directives or regulations or UK enactments, as well as international obligation (including customary international law).

Regulation 3 omits section 2(8) of the principal Law as that subsection could otherwise imply a constraint on the Committee's power to make orders under section 2 of the principal Law (that power should only be constrained by section 5(2) of the principal Law, as amended by regulation 6 (see below)).

Regulation 4 amends section 3 of the principal Law. It substitutes section 3(4)(a)(ii) of the

principal Law to clearly authorise orders to be made under this section for the purposes of controls corresponding or connected to the purpose specified in section 5(2) of the principal Law. Regulation 4 also omits section 3(6) of the principal Law, which could otherwise imply a constraint on the Committee's power to make orders under section 3 of the principal Law.

Regulation 5 amends section 4 of the principal Law. It substitutes section 4(4)(a)(ii) of the principal Law to clearly authorise orders to be made under this section for the purposes of controls corresponding or connected to the purpose specified in section 5(2) of the principal Law. Regulation 5 also omits section 4(5) of the principal Law, which could otherwise imply a constraint on the Committee's power to make orders under section 4 of the principal Law.

Regulation 6 amends section 5(2) of the principal Law to extend the Committee's powers to make orders under sections 2 (transfer controls), 3 (technical assistance controls) and 4 (trade controls) of the principal Law to include the implementation of UK enactments and international obligations generally, and not just Community directives and regulations or international agreements. This amendment is intended to give the Committee more flexibility to make export control orders that are considered to be necessary or appropriate to maintain trade with the UK (as the UK's export controls might diverge significantly from EU export controls in the future) or to maintain the international reputation and standing of the Bailiwick of Guernsey (by implementing international obligations).

Regulation 7 amends section 7(2)(b) of the principal Law as a consequence of the amendments made by regulation 6 to section 5(2) of the principal Law.

Regulation 8 substitutes the definition of "implementation" and inserts a definition of "UK enactment" in section 13(1) of the principal Law as a consequence of the amendments made by regulation 6 to section 5(2) of the principal Law.

Regulation 9 inserts a new subsection (1A) in section 13 of the principal Law to clarify that references to Community directives or regulations, UK enactments or international obligations, include such directives, regulations, enactments or obligations whether or not they apply to or are binding upon the Bailiwick of Guernsey.

Regulation 10 amends Schedule 1 to the principal Law to delete item A(b)(ii), which refers to (adverse effects on) member states of the European Community.

Regulations 11 to 19 amend the Export Control (Military, Security, and Related Matters) (Bailiwick of Guernsey) Order, 2010 ("the principal Order"). These amendments are necessary to update the relevant provisions of the principal Order so that they remain clear, relevant, enforceable and aligned to recent changes in EU and (where necessary) UK legislation, following the withdrawal of the UK from the EU.

For example, Council Regulation (EC) No 1236/2005 ("the former torture Regulation"), has been repealed and replaced with a new, codified Regulation, Regulation (EU) 2019/125 ("the new torture Regulation") and this requires provisions in the principal Order to be updated accordingly.

Regulation 12 amends article 6 of the principal Order to update references to provisions of the former torture Regulation, to references to corresponding provisions of the new torture

Regulation.

Regulation 13 revokes article 27 of the principal Order as UK legislation (the Export Control Order 2008) no longer requires registration and record-keeping for information security items.

Regulations 14 and 15 amend articles 29(2) and 33(7) of the principal Order respectively to update references to provisions of the former torture Regulation, to references to corresponding provisions of the new torture Regulation.

Regulation 16 amends article 40 of the principal Order to modify the dual-use Regulation (as given effect in the Bailiwick) in order to treat the territory collectively comprising the British Islands and the customs territory of the European Union as the customs territory (or the Community, etc.) referred to in the dual-use Regulation. "Export" under the dual-use Regulation would also be regarded as removal from the Bailiwick to a destination outside the Community (in this enlarged sense).

Regulation 17 amends article 41 of the principal Order to modify the new torture Regulation (as given effect in the Bailiwick) in order to treat the territory collectively comprising the British Islands and the customs territory of the European Union as the customs territory (or the Community, etc.) referred to in the torture Regulation.

Regulation 18 amends article 42(2)(b) of the principal Order to refer to international obligation, instead of international agreement, as a consequence of amendments made to the principal Law by regulations 2 to 10 of these Regulations.

Regulation 19 amends article 44 of the principal Order to repeal the (now redundant) definition of "information security items", as well as substitute the definitions of "competent authority", "customs territory", "dual-use Regulation", "Member State", "non-community goods" and "torture Regulation". These amendments give effect to the intention of treating the British Islands and the EU customs territory as a single customs territory for the purposes of continuing to give effect to the prohibitions and restrictions in the dual-use Regulation and the new torture Regulation.

Regulation 20 saves extant export control orders made under the principal Law as if these orders were duly made under the principal Law, as amended by these Regulations.

Regulations 21, 22 and 23 are the extent, citation and commencement provisions.

These Regulations come into force on exit day within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

**THE MEDICINES (HUMAN AND VETERINARY) (BREXIT) (BAILIWICK OF GUERNSEY)
REGULATIONS, 2019**

In pursuance of section 5(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, "The Medicines (Human and Veterinary) (Brexit) (Bailiwick of Guernsey) Regulations, 2019" made by the Policy & Resources Committee on 26th March, 2019 are laid before the States.

EXPLANATORY MEMORANDUM

These Regulations are made in consequence of the withdrawal of the United Kingdom from the European Union.

Regulations 2 to 6 amend the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008 ("the principal Law").

Regulations 2 and 3 amend sections 7(6) and 8(2) and (7) of the principal Law to refer to the United Kingdom alongside references to Member States of the European Union.

Regulations 4 and 5 amend the principal Law in order to provide for the sale or supply of prescription only medicines by retail pharmacy businesses under a serious shortage protocol issued and published by one of three office-holders (the Chief Pharmacist, Director of Public Health, or Medical Director). An office-holder will be authorised to issue such a protocol where, in his or her opinion, the United Kingdom, the Bailiwick of Guernsey or any part of the United Kingdom or Bailiwick of Guernsey is experiencing or may experience a serious shortage of particular prescription only medicines.

A serious shortage protocol, if issued, will allow for substitution, in restricted circumstances, of a different quantity of a prescription only medicine, or a different prescription only medicine, to that ordered by the prescriber. A protocol would expire unless endorsed by the Committee for Health and Social Care within 28 days of being issued.

Regulation 6 inserts a new subsection (1A) in section 136 of the principal Law. This new subsection provides that references in Community provisions (or documents made or issued under these) to the European Community, the European Union or Member States include a reference to the United Kingdom and the Bailiwick of Guernsey; references to placing things on the market are to be regarded to include a reference to placing things on the market in the United Kingdom or the Bailiwick of Guernsey; and references to competent authorities or regulatory authorities are to be regarded to include a reference to the MHRA or the Committee for Health & Social Care.

Regulation 7 and the Schedule to these Regulations amend various provisions in the Medicines (Human) (Exemptions and Recognition of Marketing Authorisations) (Bailiwick of Guernsey) Regulations, 2009 ("the 2009 Regulations"). These amendments provide for automatic recognition, under the principal Law, of marketing authorisations issued by the competent authority of any Member State of the European Union, and for consequential amendments in the 2009 Regulations.

Regulations 8, 9 and 10 are the extent, citation and commencement provisions respectively.

These Regulations come into force on exit day within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

No. 40 of 2019

**THE CUSTOMS AND EXCISE (APPROVED PORTS AND CUSTOMS DECLARATIONS)
(BAILIWICK OF GUERNSEY) REGULATIONS, 2019**

In pursuance of sections 7, 15 and 79 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, The Customs and Excise (Approved Ports and Customs Declarations) (Bailiwick of Guernsey) Regulations, 2019 , made by the Committee *for* Home Affairs on 26th March 2019, is laid before the States.

EXPLANATORY NOTE

These Regulations specify ports and airports for the purposes of customs and excise, and specify classes of good exempt from the requirement at section 15 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 to make a customs declaration.

These Regulations come into force on exit day within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

No. 41 of 2019

**THE CUSTOMS AND CROSS-BORDER TRADE (GENERAL AND ENABLING PROVISIONS)
(BAILIWICK OF GUERNSEY) LAW, 2018 (COMMENCEMENT) REGULATIONS, 2019**

In pursuance of sections 9 and 14 of the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018, The Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018 (Commencement) Regulations, 2019, made by the Committee *for* Home Affairs on 26th March 2019, is laid before the States.

EXPLANATORY NOTE

These Regulations bring into force the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018 ("the Law") in two stages. Most of the Law is brought into force on "exit day" within the meaning of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, but certain amendments to the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 in Schedule 1 to the Law are brought into force on 29 March 2019.

No. 42 of 2019

THE CUSTOMS TRANSIT PROCEDURES (BAILIWICK OF GUERNSEY) REGULATIONS, 2019

In pursuance of sections 5(1C), 20(1A)(b), 54D and 79 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, The Customs Transit Procedures (Bailiwick of Guernsey) Regulations, 2019, made by the Committee *for* Home Affairs on 26th March 2019, is laid before the States.

EXPLANATORY NOTE

These Regulations make provision for the purpose of the Bailiwick giving effect to the 102 Common Transit Convention and the TIR Transit Convention, and for the use of NATO form 302 in the case of movements of goods into, within and out of the Customs Territory (as defined in the Arrangement set out in the Schedule to the Crown Dependencies Customs Union (Guernsey) (EU Exit) Order 2018).

The Common Transit Convention ensures simplified cross-border trade by allowing exported goods to move across participating customs territories without the payment of duties until they have reached the final destination. The TIR Transit Convention permits the movement of goods under transit by road, in secure vehicles and containers, combined with other modes of transport.

These Regulations come into force on exit day, being the 11pm on 29 March 2019, or such other day and time as the Policy & Resources Committee may appoint by regulations.

No. 46 of 2019

THE SEAT BELTS (EXEMPTION) ORDER 2019

In pursuance of sections 9(2) and 13 of the Seat Belts Ordinance, 1988, The Seat Belts (Exemption) Order 2019, made by the Committee *for* Home Affairs on 27th March 2019, is laid before the States.

EXPLANATORY NOTE

This Order makes provision exempting from the prohibition on children under 14 riding in a motor car without a seat belt or child restraint appropriate to their age –

- a) a child riding in the rear of a taxi or private hire vehicle, where an appropriate seat belt or child restraint is not available (children under three must be accompanied by an adult who assumes responsibility for the child) and children aged three or more must wear an adult seat belt),
- b) a child riding in the rear of a vehicle where two child restraints are already in use preventing the use of such a restraint by that child, provided that the child is wearing an adult belt, and
- c) a child aged twelve or more, or who is 135 cm or more in height, riding in the rear of the vehicle, if no seat belt is available.

This Order comes into force on the 29th day of March, 2019.

No. 50 of 2019

THE MERCHANT SHIPPING (COMMERCIAL VESSELS) (SAFETY AND CREWING) (GUERNSEY AND SARK) REGULATIONS, 2019

In pursuance of the powers conferred on it by sections 289, 296(1) and 297(2) of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 and section 20 of the Hired Boats and Passenger Boats (Guernsey) Law, 1989, “The Merchant Shipping (Commercial Vessels) (Safety and Crewing) (Guernsey and Sark) Regulations, 2019”, made by the States’ Trading Supervisory Board and the Sark Harbours and Shipping Committee on 26th March, 2019, are laid before the States.

EXPLANATORY NOTE

These Regulations amend, repeal or suspend such legislative provisions as is necessary to facilitate the introduction of a Small Commercial Vessels Code governing construction standards, crew licencing, operating limits and other related matters within Guernsey and Sark.

These Regulations came into force on 1st May, 2019.

The full text of the legislation can be found at:

<http://www.guernseylegalresources.gg/article/90617/Ordinances>

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

PROJET DE LOI

Entitled

**THE SEVERE DISABILITY BENEFIT AND CARER'S ALLOWANCE (GUERNSEY)
(AMENDMENT) LAW, 2019**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Severe Disability Benefit and Carer's Allowance (Guernsey) (Amendment) Law, 2019", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

This proposition has 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.

EXPLANATORY MEMORANDUM

This Law amends the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984 to allow carer's allowance to be received under that Law at the same time as any benefit under the Social Insurance (Guernsey) Law, 1978.

PROJET DE LOI

ENTITLED

The Severe Disability Benefit and Carer's Allowance (Guernsey) (Amendment) Law, 2019

THE STATES, in pursuance of their Resolution of the 25th October, 2018^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Alderney, Herm and Jethou.

Amendment of the Severe Disability Benefit and Carer's Allowance Law.

1. Section 2(3)(c) of the Severe Disability Benefit and Carer's Allowance (Guernsey) Law, 1984^b is repealed.

Citation.

2. This Law may be cited as the Severe Disability Benefit and Carer's Allowance (Guernsey) (Amendment) Law, 2019.

^a Article X of Billet d'État No. XXIII of 2018.

^b Ordres en Conseil Vol. XXVIII p. 353; amended by Ordres en Conseil Vol. XXIX, p. 198; Vol. XXXI, p. 278; Vol. XXXIII, p. 238; Vol. XXXIV, p. 458; Vol. XXXIX, p. 107; Order in Council No. X of 2003; No. IV of 2014; No. IV of 2014; No. IV of 2018; Recueil d'Ordonnances Tome XXVI, p. 177; Ordinance No. XXXIII of 2003; No. VII of 2009; No. XXX of 2013; No. IX of 2016; No. XXXVI of 2017; and No. XXVII of 2018.

Commencement

3. This Law shall come into force on the day specified by regulations made by the Committee for Employment & Social Security of the States of Guernsey.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

PUBLIC SERVANTS' PENSION SCHEME – AMENDMENTS TO THE RULES

The States are asked to decide:-

Whether, after consideration of the policy letter entitled “Public Servants’ Pension Scheme – Amendments to the Rules” dated 27 March 2019 they are of the opinion:-

To approve the States of Guernsey (Public Servants) (New Pensions and other Benefits) Rules, 2016 as amended, and as set out in the Appendix to the “Public Servants’ Pension Scheme – Amendments to the Rules” policy letter.

The above proposition has 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.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

PUBLIC SERVANTS' PENSION SCHEME – AMENDMENTS TO THE RULES

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

27 March 2019

Dear Sir

1. Executive Summary

1.1 In February 2016 (Billet d'État III, Volume 1, Article II) the States approved the States of Guernsey (Public Servants) (New Pensions and other Benefits) Rules, 2016. These new Rules gave effect to revised arrangements designed to ensure that the pension benefits for States employees, and the employees of associated bodies, remained both affordable and sustainable.

1.2 This report recommends that the States endorse amendments to the Rules to give effect to:

- a legally binding agreement between the States and Unite the Union through mediation following a legal challenge to the new Rules by certain members; and
- revised arrangements agreed by Policy & Resources (the Committee) to apply to Crown Officers and Judges following consultation and discussion with those office holders in the light of changes for other members as detailed in April 2015 (Billet d'État VII, Article 6, paragraph 64).

1.3 The Committee is also taking the opportunity in this report to address the following issues:

- the removal of unintentional discrimination against same sex marriage surviving partners;
- an improvement in benefits for Qualifying Partners; and, finally
- the correction of unintended omissions in the new Rules.

1.4 The Committee can confirm that these agreements have been achieved within the previously determined cost envelope set to ensure the overall pension arrangements remain affordable.

2 Agreement between the States and Unite the Union

- 2.1 In April 2015 the States endorsed new pension arrangements for members joining from 1 May 2015 and instructed the Policy Council to continue mediation with the Association of States Employees' Organisations (ASEO) to seek agreement, approved by the Scheme members whom they represent, over the pension arrangements for those who had joined prior to 1 May 2015.
- 2.2 On 30 September 2015 the Deputy Chief Minister advised the Assembly that the Chair of ASEO had provided results from the ballots of the constituent bodies of ASEO. ASEO had advised that a majority of those constituent bodies had voted to accept the proposals. The results also satisfied the Policy Council that constituent bodies with representational rights for a clear majority of States employees had accepted the proposals. In consequence, both ASEO and the Policy Council supported the implementation of the negotiated proposals.
- 2.3 In accordance with the above, in February 2016 the States approved the new Rules to give effect to revised pension arrangements for both those joining from 1 May 2015 and those members who had joined earlier – for the latter the new Rules were effective from 1 March 2016.
- 2.4 Not all employee organisations or all members had accepted the outcome of the mediation even though it represented the conclusion of an exhaustive process which had commenced in 2011. In April 2016 two members supported by Unite the Union commenced legal proceedings against the States in relation to the Rule changes.
- 2.5 In November and December 2017 as part of those legal proceedings the parties participated in mediation with a view to avoiding a trial which was scheduled to commence in January 2018. The constructive approach by the leaders of Unite during that mediation enabled a proposal to emerge which was approved in a ballot by a 75% majority of the affected members of Unite. The agreement became binding following that approval.
- 2.6 The agreement with Unite is in respect of the members they represent which includes: Public Service Employees (PSEs), certain Nurses, Prison Officers, Firefighters, and Airport Firefighters. But as the Scheme is a single scheme encompassing all States employees and employees of associated bodies, the new option introduced as a result of the agreement will be available to all members in a similar position.
- 2.7 Pension arrangements can be complex but the newly available option can be explained in short order with no loss of accuracy. Under the arrangements introduced in March 2016 certain members who transferred from the Final Salary section to the Career Average Revalued Earnings (CARE) section of the Scheme contribute 7% of pensionable salary and accrue an annual pension to become payable between age 65 years 10 months and age 70 (depending on their State Pension Age). These members will now have the option to transfer to a different CARE section of the Scheme in which they will

contribute 7.5% of pensionable salary from January 2020 and accrue both annual pension and a lump sum payable from age 65. Firefighters and Airport Firefighters, also represented by Unite, have long had different benefits. Under the 2016 Rules they continue to have different benefits and under the agreement with Unite they have a new option analogous to that for standard members. That option will be extended to Police Officers.

2.8 The new option has been designed to address the specific major concerns raised by Unite in respect of their members i.e. the pension age and the absence of an automatic lump sum but at no additional cost to the employer. It is undoubtedly to the benefit of both members and the States that it ultimately proved possible to achieve this settlement and avoid the necessity for trial which, irrespective of the outcome, could not have enhanced industrial relations.

2.9 The full details of the new option are contained in Part 7 of the Rules appended to this Report.

3 Crown Officers and Judges

3.1 As detailed in paragraph 2.1 consultation over the pension arrangements for States employees was conducted with ASEO. This section concerns the Bailiff, Deputy Bailiff, HM Procureur, HM Comptroller and the three Judges ('the office holders.') Whilst the office holders are public servants appointed by the Crown, they are not States employees but are Scheme members. Thus the report to the States in April 2015 advised as follows:

"As noted in paragraphs 5 and 7 the Crown Officers and Judges are Scheme members. Following States consideration of this report, it will be the responsibility of the Treasury and Resources Department to consult with the Crown Officers and Judges about any changes in the pension arrangements for those posts in the light of changes for other members."

3.2 The consultation involved discussions direct with the office holders, followed by mediation facilitated by a professionally qualified mediator engaged by the Committee for this purpose. The process, therefore, had close similarities with those which, ultimately, resolved issues with other Scheme members.

3.3 In the course of discussions both the Committee and the office holders have been mindful of the longstanding objective for the Scheme that benefits and terms should in general approximate to those available in the UK and elsewhere for equivalent groups. It is in accordance with that objective that Firefighters and Police Officers have long had different benefits and continue to have different benefits under the reformed arrangements. The office holders are in a similar position.

3.4 The Committee and the office holders have agreed that the longstanding objective for the Scheme can be best upheld for the office holders by providing arrangements for them within the scheme which mirror the arrangements in the New Judicial Pension

Scheme introduced in the UK in 2015. In brief the main features of the arrangements for the office holders under the 2008 arrangements and the newly agreed arrangements are as follows:

2008 Arrangements

Final Salary, pension accrual of 1/34 of pensionable salary for each year of service, pension age 65. Member contribution rate of 9.3%, current employer additional contribution rate of 6.7% above the standard employer contribution rate for the Final Salary section.

New Arrangements

CARE, pension accrual of 1/43.1 of pensionable salary for each year of service with UK CPI indexation, pension age in line with UK State pension age (currently up to age 68, subject to review during each parliamentary term), member contribution rate of 7.35% on salary up to £150,000 and 8.05% above that level, employer contribution rate at the standard employer rate for the CARE section (i.e. no additional employer rate) for members who joined the Scheme prior to the introduction of the 2016 Rules but with an additional employer rate of 1.75% for members who join the Scheme later. There is an employer cost cap and floor for the UK arrangements. If that results in changes in the future, such changes will automatically apply to the arrangements for the office holders.

3.5 In line with all other Scheme members, office holders who were within ten years of their Scheme pension age are entitled to remain on their Final Salary arrangements within the new Scheme with an increase in member contribution rate of 0.5%.

3.6 The full details of the new arrangements for the office holders are contained in Part 8 of the Rules appended to this Report.

4 Surviving Partners

4.1 The Scheme arrangements have long made provision for benefits for the widows and widowers of Scheme members. These spouse benefits are based on all service for which the member has contributed for a spouse benefit. There were not benefits for surviving civil partners or same sex marriage partners as Guernsey Law made no such provision. Nor were benefits provided for surviving unmarried partners.

4.2 When the Scheme was 'modernised' in 2008 benefits were introduced for Qualifying Partners (QPs) (i.e. partners of the opposite or same sex who are free to marry but choose not to). As a newly introduced benefit a surviving QP's benefit is based on service from 1 January 2008 only.

4.3 The Public Sector Remuneration Committee advised that the intention was that when civil partnerships were introduced in Guernsey surviving partners of Scheme members would receive the same benefits as a spouse. In the event, same sex marriage rather than civil partnership was introduced.

4.4 When the 2016 Rules were drafted the benefits for surviving same sex marriage partners were inadvertently aligned to those of QPs (i.e. only member service since January 2008 counts) instead of in line with those of spouses (i.e. all service). This is not only contrary to the original intention but also discriminatory (as determined in a recent UK case). The amendments to the Rules correct this arrangement.

4.5 The Committee has also considered the position of surviving QPs for whom only service since January 2008 counts. The arrangement is not discriminatory as there is no difference between opposite and same sex partners, and the arrangements in UK schemes vary – some counting all service, others counting only service since the category of QP was introduced. The Committee considers it appropriate for all the service of members with service after these amendments to the Rules to count for the calculation of a surviving QP's benefit.

5 Unintended omissions in the 2016 Rules

5.1 Once all discussions, consultations and agreements are reached between all relevant parties it is the responsibility of the employer to give effect to the revised arrangements in the form of new Rules. The Rules have to cover all possible relevant scenarios which could arise in life and death. Almost inevitably circumstances arise which had not been foreseen and for which no provision had been made. In such circumstances the administrators will exercise discretion to apply the Rules appropriately. However, the introduction of pension administration systems and the detailed testing of such systems has brought to light a number of scenarios (none of which have actually yet occurred) for which provision had not been made. The Committee has taken this opportunity to include appropriate provisions in the Rules.

6 Compliance with Rule 4

6.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

6.2 In accordance with Rule 4(1), the Proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

6.3 In accordance with Rule 4(3) the Proposition is not requesting the States to approve funding.

6.4 In accordance with Rule 4(4) it is confirmed that the Proposition has the unanimous support of the Committee.

6.5 In accordance with Rule 4(5), the Proposition relates to the duties of the Committee as employer.

7 Recommendation

7.1 The Committee recommends that the States approve the States of Guernsey (Public Servants) (New Pensions and other Benefits) Rules, 2016 as amended set out in the Appendix to this Report.

Yours faithfully

Deputy G A St Pier
President

Deputy L S Trott
Vice-President

Deputy J P Le Tocq
Deputy A H Brouard
Deputy T J Stephens

The States of Guernsey (Public Servants) (New Pensions and other Benefits) Rules, 2016

The States in pursuance of their Resolution of the 16th day of February 2016 approved the following Rules.

The States in pursuance of their Resolution of the [▪] day of [▪] 2019 approved the following Rules as amended.

Final: 3rd April 2019

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Part 7	Special transition provisions for CARE Transition Members admitted and accruing benefits with effect from the Transition Date.
Part 8	Special Provisions for CARE Members holding a Relevant Office.

Background

- (A) By a resolution of the States of Guernsey dated 16th February 2016 the Principal Employer amended the Scheme with effect from the Transition Date.
- (B) Before this date, the Scheme was governed by the States of Guernsey (Public Servants) (Pensions and other Benefits) Rules 1972 to 2010 (those rules being set out in the Original Documents), the Scheme being introduced by a Resolution of the States dated 28th September 1972 and having been subsequently amended on several occasions.
- (C) The Committee administers the Scheme.
- (D) The Principal Employer is the Principal Employer of the Scheme.
- (E) By resolution of the States of Guernsey dated 29th April 2015 the Final Salary Scheme was closed to new members with effect from 1st May 2015. New Members joining the Scheme from the 1st May 2015 join the Scheme on the basis of these Rules.
- (F) Transitional provisions relating to Members in the Final Salary Scheme as at the Transition Date are set out in the Final Salary Rules. Final Salary Protected Members are subject to the provisions of the Final Salary Rules. CARE Transition Members who were Members of the Final Salary Scheme immediately prior to the Transition Date are subject to the provisions of the Final Salary Rules in relation to their Pensionable Service up to the Transition Date.
- (G) By a resolution of the States of Guernsey dated [•] [•] 2019 the Principal Employer, pursuant to Rule 6.3, amended these Rules the amendments being treated as having come into effect on the Transition Date.

Operative Part

Part 1 Administrative and General Provisions (this part applies to both the CARE Scheme and the Final Salary Scheme)

1. Definitions and Interpretation

- 1.1 The following definitions and rules of interpretation apply in these Rules.
- 1.2 **Active Member:** an Employee who has been admitted to the Scheme and who is in Pensionable Service either as a Final Salary Protected Member

(pursuant to the transitional provisions in Part 3) or a CARE Active Member.

- 1.3 **Actuary:** the actuary appointed in relation to the Scheme.
- 1.4 **Additional Pensionable Service:** any notional period of Service attributed to a Member on Total Incapacity or death in Service, calculated as 50% of the additional Pensionable Service that Member would have completed if he had remained in Service until reaching Normal Pension Age.
- 1.5 **Auditor:** the auditor appointed in relation to the Scheme.
- 1.6 **AVC:** means any additional voluntary contribution that an Active Member pays from time to time in addition to his Member Contributions:
- (a) to the Defined Contribution Scheme; and or
 - (b) in the case of Final Salary Protected Members the purchase of added pension; and or
 - (c) in the case of CARE Transition Members the purchase of added pension or in mitigation of the reduction in his CARE Scheme Pension as a result of early retirement.
- 1.7 **Basic State Pension:** the States of Guernsey old age pension payable pursuant to the Social Insurance (Guernsey) Law, 1978.
- 1.8 **Beneficiary:** a beneficiary under the Scheme (including any Member and any potential or contingent beneficiary).
- 1.9 **C(G)L 2008:** Companies (Guernsey) Law 2008.
- 1.10 **CARE Active Member:** an Active Member who is accruing benefits under the CARE Rules.
- 1.11 **CARE Deferred Member:** a Deferred Member who has accrued benefits under the CARE Rules.
- 1.12 **CARE New Member:** a Member of the Scheme who joined on or after 1st May 2015.
- 1.13 **CARE Pensioner Member:** a Pensioner Member who accrued benefits under the CARE Rules.
- 1.14 **CARE Revaluation:** means revaluation with effect from 1st January in each year based on:
- (a) For CARE New Members: the lesser of 6% and the percentage increase in the RPIX during the 12 months ending on the preceding

30th June on which the increase is to be based provided that if the increase in RPIX in that period of 12 months has exceeded 7.5% and the increases for the 12 months ending on the preceding 31st December and 31st March have also exceeded 7.5% the Committee may, having considered those factors which it considers to be appropriate, adopt a rate above 6%;

- (b) For CARE Transition Members: the lesser of 7.5% and the percentage increase in the RPIX during the 12 months ending on the preceding 30 June on which the increase is to be based provided that if the increase in RPIX in that period of 12 months has exceeded 7.5% the Committee may, if it considers that the increase can be afforded from those Scheme Assets (excluding AVCs) that relate to the CARE Scheme, adopt a rate above 7.5%,

and which for the avoidance of doubt may, in its sole discretion, be different percentages for each of the following category of Member:

a CARE Active Member, or
a CARE Deferred Member or
a CARE Pensioner Member

in each case who joined the Scheme as:

a CARE New Member:
a CARE Transition Member.

The CARE Revaluation shall only apply to benefits accrued in the CARE Scheme (as revalued) before the 1st January in the year preceding the date of the increase.

- 1.15 **CARE Rules:** the rules providing benefits on the career-average revalued earnings (CARE) basis contained in these Rules.
- 1.16 **CARE Scheme:** that part of the States of Guernsey Public Servants Pension Scheme constituted by these Rules as a career average revalued earnings pension scheme.
- 1.17 **CARE Transition Member(s):** (an) Active Member(s) of the Scheme who at the Transition Date has transferred to the CARE Scheme.
- 1.18 **Cash Equivalent:** a cash equivalent transfer value calculated by the Actuary.
- 1.19 **Civil Partner:** a person who has entered into a civil partnership with another person as defined by Section 30(1) of the Inheritance (Guernsey) Law, 2011.

- 1.20 **Committee:** Policy & Resources Committee or otherwise the committee nominated by the Principal Employer for the time being.
- 1.21 **Contribution Refund:** the sum referred to in Rule 46 and Rule 71.
- 1.22 **DC Account:** a notional account established by the Committee in the name of an Active Member to which the Committee must credit:
- (a) AVCs paid by the Active Member to the Defined Contribution Scheme; and
 - (b) Contributions by the Employer and Active Member on Salary above the Earnings Cap;
 - (c) the investment return on the contributions within the Defined Contribution Scheme allocated by the Committee; and
 - (d) sums transferred into the DC Account.
- 1.23 **Deferred Member:** a Final Salary Deferred Member and or a CARE Deferred Member being a member who has left Pensionable Service and is entitled to a deferred pension under the Scheme that has not yet come into payment.
- 1.24 **Defined Contribution Scheme:** the arrangements referred to in Rule 44.
- 1.25 **Dependant:** an individual who, in the Committee's opinion, satisfies the meaning of "dependant" in connection with a Member.
- 1.26 **Earnings Cap:** The figure which at any time
- (a) is the top incremental scale of the salary payable to an employee of the Principal Employer with a pay grade of SO6; but
 - (b) for the avoidance of doubt the figure for the Earnings Cap is that which applies from the first of the month of the date when the first payment is made following any increase in the Principal Employer's pay grades;
- provided further:
- (c) if the Principal Employer shall abolish the pay grade of SO6, then the cap in (a) shall be the figure which would most closely reflect the pay of an employee of the Principal Employer of equivalent seniority to that grade with all increments having been awarded.
- 1.27 **EEA:** the European Economic Area.
- 1.28 **EIERP:** The Employer Initiated Early Retirement Process operated by an Employer.

- 1.29 **Electronic Communication:** a means of communicating electronically, including by email to a work or personal email address, telephone texting or messaging, publication on an intranet or website, or through the use of social media networks, and whether individually addressed or sent to a group collectively.
- 1.30 **Eligible Employee:** an Employee who is:
- (a) a permanent Employee; or
 - (b) a fixed-term Employee engaged under a contract that is at least 12 months in length; or
 - (c) any other Employee who is invited to join the Scheme by the Principal Employer.
- 1.31 **Employee:** a person employed by an Employer.
- 1.32 **Employer:** the Principal Employer and any Participating Employer.
- 1.33 **Evidence of Financial Dependence:** evidence to the reasonable satisfaction of the Committee to be provided at the time that any claim is made by a Qualifying Partner for benefits verifying financial dependency or interdependency and which may include some or all of the following and such other evidence as may be reasonably requested by the Committee:
- (a) that the Member and the Qualifying Partner have lived together in a shared household for not less than two years;
 - (b) that there was shared household expenditure;
 - (c) that children of the Member and the Qualifying Partner were being jointly brought up;
 - (d) that the Member and the Qualifying Partner shared bank accounts, investments and or loans;
 - (e) that wills and or life insurance policies have been executed naming the Member and Qualifying Partner as the main beneficiary of the other;
 - (f) that mutual powers of attorney have been executed; and
 - (g) that the death of the Member has led to substantive increased living expenses for the Qualifying Partner.

1.34 **Exceptional Serious Ill Health Circumstances:** means that a qualified medical practitioner (and, if so required by the Committee a medical practitioner appointed by the Committee), has satisfied the Committee that the life expectancy of the Member is less than one year.

1.35 **Final Pensionable Salary:** for a Member, means the total amount of Salary paid to him during his last year of Pensionable Service, or where this is greater, the average of the annual Salary paid to him during the highest three consecutive years within the last ten years of his Pensionable Service each of the selected three years Salary being re-valued (before averaging) by reference to any increase prior to 29th February 2016 in RPI and following that date by reference to any increase in RPIX to the retirement date or earlier death of that Member, ignoring any reduction in Salary in any of those selected three years by reason of the operation of any other Rule and provided that if a Member has a period of Part-time Service, Salary in Part-time Service shall be increased for the Final Salary Rules in accordance with the following formula:

$$\frac{\text{FTP}}{\text{HP}} \times \text{S}$$

Where:

FTP is the number of hours per calendar year which the Employer was entitled at the time to require a full-time Employee to devote to their employment; and

HP is the number of hours per calendar year which the Employer was entitled at the time to require the Member to devote to their employment; and

S is the actual total amount of Salary paid to the Member in respect of that period of qualifying Part-time Service; and

Provided that this shall not apply for the purposes of calculating any Death in Service Lump Sum payable in respect of a Member who has died whilst in Part-time Service in accordance with Rule 86.1(a).

1.36 **Final Salary Compulsory Retirement Age:** the dates of compulsory retirement for Final Salary Protected Member as set out in the Final Salary Rules.

1.37 **Final Salary Deferred Member:** a Deferred Member who has accrued benefits under the Final Salary Rules.

- 1.38 **Final Salary Existing Member:** a Member of the Final Salary Scheme who (subject to any other of the Final Salary Rules):
- (a) was a Member in Pensionable Service of the Final Salary Scheme at 31st December 2007 or
 - (b) a person entitled to receive preserved benefits under the Final Salary Rules but who had not commenced to receive them on or before 31st December 2007; or
 - (c) a person who prior to the 31st December 2007 ceased to be a Member of the Final Salary Scheme under Rule 5A of the Original Documents, and either had not commenced to receive preserved pensions and other benefits or was in receipt of a retirement pension and who subsequently re-entered the Scheme by 30th September 2008 or within 5 years and 2 days of the date of their last leaving (whichever was later) provided that this was prior to 1st May 2015 in any event and had relinquished their right to those preserved pensions and other benefits or their retirement pension (as the case may be) and who had elected to be treated as an Existing Member; or
 - (d) a person who joined the Scheme from comparable employment and who enjoyed protected rights under the pension scheme from which they transferred, and who on transferring to the Final Salary Scheme elected to be treated as an Existing Member.
- 1.39 **Final Salary New Member:** a Member of the Final Salary Scheme who is not a Final Salary Existing Member.
- 1.40 **Final Salary Normal Pension Age:** for a Final Salary Protected Member the Normal Pension Age is ascertained in accordance with Rules 75 – 79 inclusive.
- 1.41 **Final Salary Pensioner Member:** a Pensioner Member who accrued benefits under the Final Salary Rules.
- 1.42 **Final Salary Protected Member:** an Active Member of the Final Salary Scheme at the Transition Date, who was within 10 years of his Final Salary Normal Pension Age as at the 31st December 2013 and who is entitled to remain as a Final Salary Scheme Member under the transitional provisions, is still accruing benefits under the Final Salary Rules and has not elected to join the CARE Scheme.
- 1.43 **Final Salary Rules:** the rules providing benefits on a final salary basis contained in the Original Documents but as summarised in and amended by Part 3 and which relate to Final Salary Scheme Members and also to

CARE Transition Members (in relation to their Pensionable Service prior to the Transition Date).

- 1.44 **Final Salary Scheme:** the States of Guernsey Public Servants Pension Scheme which, immediately prior to the Transition Date, was constituted by the Original Documents as a final salary pension scheme.
- 1.45 **FRC Standard:** actuarial guidance published and updated from time to time by the Financial Reporting Council.
- 1.46 **FSMA 2000:** Financial Services and Markets Act 2000.
- 1.47 **Income Tax Office:** The States of Guernsey Income Tax Office or if the context requires Her Majesty's Revenue and Customs.
- 1.48 **Ill-health Condition:** means the approval of the Committee to treat the Active Member as having Partial Incapacity or Total Incapacity (as the case may be),
- (a) after having consulted with the relevant Employer;
 - (b) after having taken medical and other relevant advice as the Committee considers appropriate; and
 - (c) subject to the Committee being able to attach conditions to that approval as they consider appropriate or desirable.
- 1.49 **Insolvency Event:** means that the person concerned becomes bankrupt or has a receiving order, administration order or interim order made against him, or shall be en désastre, or who has made any composition or arrangement with or for the benefit of his creditors, or shall purport to do so, or any application shall be made for sequestration of his estate, or he shall have a preliminary vesting order made against any of his real property anywhere in the Bailiwick of Guernsey or shall otherwise be insolvent within the Bailiwick of Guernsey or is the subject of any equivalent event to those in any other jurisdiction, or is otherwise regarded as insolvent, in any other jurisdiction.
- 1.50 **Insurance Company:** a company that has permission under Part IV of the FSMA 2000 to effect or carry out contracts of long-term insurance, a friendly society enabled by regulations to conduct approved insurance business, or an EEA company lawfully carrying on long-term insurance business in the UK or Guernsey.
- 1.51 **IT(G)L 1975:** The Income Tax (Guernsey) Law 1975 (as amended).

- 1.52 **Liability:** any costs, charges, damages, expenses, losses, penalties or taxes which the Committee or any member or officer of that Committee may incur in connection with the Scheme.
- 1.53 **Maternity Leave:** an Active Member's absence from Service for maternity leave permitted by an Employer.
- 1.54 **Member:** an Active Member, Deferred Member or Pensioner Member.
- 1.55 **Member Contribution:** a contribution payable to the Scheme by an Active Member in accordance with these Rules.
- 1.56 **Nomination Criteria:** means:
- (a) that the Member and the Qualifying Partner are living together in an exclusive committed long-term permanent relationship; and
 - (b) that the Member and the Qualifying Partner are both legally free to marry; and
 - (c) that neither are currently in a registered civil partnership with a third party; and
 - (d) that the nominated partner is a Dependant of the Member or that the Member and the nominated partner are financially dependent on each other; and
 - (e) includes such other nomination criteria as the Committee may from time to time require.
- 1.57 **Normal Minimum Pension Age:** Subject to any other specific provision of these Rules, including Part 7, In relation to
- (a) CARE New Members (and subject to any other specific provision of these Rules), the date on which a Member attains the age of 55 or the date which is 10 years before his Normal Pension Age whichever is later, or such other date as the Committee may from time to time resolve with the prior authority of the Principal Employer.
 - (b) For CARE Transition Members and Final Salary Protected Members, the Final Salary Normal Pension Age less ten years but subject to a minimum age of 50.
- 1.58 **Normal Pension Age:** Subject to any other specific provision of these Rules, including Part 7 and Part 8,

- (a) For a CARE New Member, the date on which a Member is entitled to receive the Basic State Pension on an unreduced basis (as established from time to time);
- (b) For a CARE Transition Member, the date set out in the Table in Part 6 of these Rules;
- (c) For a CARE New Member who is a member of the Guernsey Police Force, Guernsey Fire and Rescue Service or Guernsey Airport Fire and Rescue Service, and who remains in Pensionable Service until age 55, the higher of age 60 or the date on which the relevant Member is entitled to receive the Basic State Pension on an unreduced basis less 7 years;
- (d) For a CARE Transition Member who is employed by the Guernsey Police Force, Guernsey Fire and Rescue Service or Guernsey Airport Fire and Rescue Service, and who under the Final Salary Scheme immediately prior to the Transition Date has a Normal Pension Age of 60 or below, and who remains in Pensionable Service until age 55, the higher of age 60 or the relevant retirement date for that Member in the Table in Part 6 less 7 years;
- (e) For a CARE Transition Member who is employed as a Nurse or Mental Health Officer and who under the Final Salary Scheme immediately prior to the Transition Date has a Normal Pension Age below 60, and who remains in Pensionable Service until age 55, the higher of age 60 or the relevant retirement date for that Member in the Table in Part 6 less 7 years;

or such other date for (a) to (e) as the Committee may from time to time resolve with the prior authority of the States, and for the avoidance of doubt CARE New Members and CARE Transition Members who do not remain in Pensionable Service until the age of 55 fall within the provisions of paragraph (a) or (b) (as the case may be);

- (f) For a Final Salary Protected Member, the Final Salary Normal Pension Age for that Member.

1.59 **Ordinary Employer Contribution:** a contribution payable to the Scheme by an Employer in relation to the accrual of future Pensionable Service (determined by the date at which it is being assessed).

1.60 **Original Documents:** the documents that governed the Final Salary Rules as at 29th February 2016 and detailed in Part 5 of these Rules.

- 1.61 **Paid Family Leave:** a period of Maternity Leave or Paternity Leave during which an Active Member receives contractual pay or statutory maternity or paternity pay from an Employer.
- 1.62 **Partial Incapacity:** physical or mental impairment, which in the Committee's opinion is permanent and prevents a Member from undertaking his employment with an Employer.
- 1.63 **Partial Retirement Member:** an Active Member who has chosen to draw his pension in part while remaining in Pensionable Service.
- 1.64 **Participating Employer:** the Crown and or any governmental or statutory body, company, firm or person admitted to participate in the Scheme under Rule 28.
- 1.65 **Part-time Service:** a period of employment that an Active Member serves with an Employer which involves less than full-time employment and which is notified to the Committee by an Employer and which complies with the provisions of these Rules.
- 1.66 **Paternity Leave:** an Active Member's absence from Service for paternity leave permitted by an Employer.
- 1.67 **Pension:** means the pension payable in accordance with the rules of the Scheme, and (unless stated to the contrary in any particular Rule) for CARE Transition Members and Final Salary Protected Members who are Final Salary Existing Members, and CARE New Members, includes the Terminal Grant.
- 1.68 **Pensions Consultative Committee:** the Committee comprising of representatives of trade unions, retired Members and the Principal Employer established to act as a liaison group and discharge the functions set out in Rule 16 as reconstituted from time to time.
- 1.69 **Pensionable Salary:** the Salary, subject to the Earnings Cap.
- 1.70 **Pensionable Service:** the period of Service that an Active Member completes after joining the Scheme during which he accrues benefits in the Scheme, provided that this definition is modified for an Active Member with any period of Part-time Service under Rule 49 and Rule 73 or any period when he is on any leave of absence.
- 1.71 **Pensioner Member:** a former Active Member (whether a Final Salary Pensioner Member and or a CARE Pensioner Member) who is being paid a pension under the Scheme.

- 1.72 **Police and Fire-fighters Additional Contributions:** in relation to CARE Active Members additional contributions of 2.25% of Salary.
- 1.73 **Principal Employer:** The States of Guernsey acting in its capacity as Employer.
- 1.74 **PSTC:** means the Public Sector Transfer Club (which includes any successor organisation).
- 1.75 **Qualifying Child:** for a Member: a natural or adopted child, or step-child or child en ventre sa mere who:
- (a) has not reached age 18; or
 - (b) who has reached age 18, and because of physical or mental impairment or was in full time education or for some other reason,
- and who was in the Committee's opinion, at the date of the Member's death, a Dependant of the Member but only for as long as they remain a Qualifying Child under these Rules.
- 1.76 **Qualifying Partner:** a person who at the time of any claim satisfies the Nomination Criteria.
- 1.77 **Qualifying Recognised Overseas Pension Scheme:** the meaning given in section 150(8) of the FA 2004.
- 1.78 **Receiving Scheme:** a pension scheme permitted to receive the funds to be transferred into it under the IT(G)L 1975 in each case approved by the Committee.
- 1.79 **Registered Pension Scheme:** a pension scheme that is recognised by the Income Tax Office as qualifying for tax benefits under the IT(G)L 1975.
- 1.80 **Retirement Annuity Trust:** a retirement annuity trust approved by the Income Tax Office.
- 1.81 **RPIX:** the Guernsey Retail Prices Index (excluding mortgage payments) published by the States. If the Guernsey Retail Prices Index stops being published or becomes inappropriate in the Committee's opinion, the Committee may rely on any other index or measure of inflation as it considers appropriate.
- 1.82 **Rules:** these rules of the Scheme.

- 1.83 **Salary:** the annual salary or wages paid to an Active Member by his Employer, excluding payment for overtime, fees, bonuses and any other allowance or sum (except to the amount that the Committee may approve).
- 1.84 **Same Sex Spouse:** The person to whom a Member is legally married in accordance with any legislative provision permitting marriage within the United Kingdom or the Bailiwick of Guernsey or Jersey or such other jurisdiction as the Committee may by resolution recognise.
- 1.85 **Scheme:** the States of Guernsey (Public Servants)(Pensions and Other Benefits) Pension Scheme as at the date these Rules come into effect or as subsequently amended and which includes the CARE Scheme, the Final Salary Scheme as now constituted, and the Defined Contribution Scheme.
- 1.86 **Scheme Assets:** the fund to which the provisions of the Scheme apply, comprising money and other assets received by the Committee in accordance with these Rules, and all income derived from them, including AVCs.
- 1.87 **Scheme Year:** a period of 12 months ending on 31st December each year or such other period as the Committee may determine.
- 1.88 **Service:** service with an Employer.
- 1.89 **Special Employer Contribution:** a contribution payable to the Scheme by an Employer in accordance with Rule 30.
- 1.90 **Spouse:** the person to whom a Member is legally married including
- (a) a Same Sex Spouse, or a Member's Civil Partner;
 - (b) in relation to a Member who retires and dies at any time on or after 1st January 2008, with Pensionable Service after that date, and includes a Spouse of that Member cohabiting with him at the date of his death and who has, following the death of the Member, remarried.
- 1.91 **State Pension Age:** the age at which a person is entitled to receive an unreduced Basic State Pension and the date of its receipt would not be as a result of the exercise of early or other age related options.
- 1.92 **Statement of Investment Principles:** the principles adopted by the Committee for investment of Scheme Assets from time to time.
- 1.93 **States:** The States of Guernsey acting in its governmental or other capacity and not as Principal Employer.

- 1.94 **Teachers' Scheme:** The Teachers' Superannuation Scheme being the superannuation scheme regulated by The Teachers' Superannuation (Guernsey) Regulations, 2001 (the Teachers' Regulations).
- 1.95 **Temporary Participating Employer:** an employing entity admitted to participation in the Scheme as a Participating Employer for a temporary period under Rule 28.1.
- 1.96 **Terminal Grant:** means the lump sum benefit payable under the CARE Rules or the Final Salary Rules as the case may be.
- 1.97 **Total Incapacity:** physical or mental impairment, which in the Committee's opinion is permanent and prevents a Member from undertaking his employment or any similar employment with any employer or only at a substantially lower rate of pay or responsibility.
- 1.98 **Transition Date:** 1st March 2016
- 1.99 **UK:** the United Kingdom of Great Britain and Northern Ireland.
- 1.100 **Unpaid Family Leave:** a period of Maternity Leave or Paternity Leave, which is not Paid Family Leave.
- 1.101 Rule and other headings shall not affect the interpretation of these Rules.
- 1.102 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.103 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.104 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.105 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.106 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.107 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.108 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time.

- 1.109 A reference to writing or written includes fax and Electronic Communication.
- 1.110 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.111 A reference to these Rules or to any other document referred to in these Rules is a reference to these Rules as varied from time to time.
- 1.112 References to Rules are to the Rules of this Scheme unless the context otherwise expressly states.
- 1.113 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Governing law

These Rules and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Guernsey.

3. Jurisdiction

The courts of Guernsey shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Rules or their subject matter or formation (including non-contractual disputes or claims).

4. Amendment of the Scheme

4.1 With effect from the Transition Date, the Scheme must be administered under these Rules.

4.2 The entitlement to and calculation of benefits of any Member who

- (a) ceased to be an Active Member; or
- (b) died before the Transition Date;
- (c) or any person claiming for such Member,

is not affected by the provisions of these Rules except as otherwise provided in these Rules. Nothing in these Rules operates so as to invalidate or affect any act or the exercise of any power, discretion or right before the date of these Rules by the Employers or the Committee or the States in respect of the Scheme.

5. Constitution of the Scheme

The sole purpose of the Scheme is to provide benefits for Beneficiaries. Benefits are provided on the basis set out in these Rules.

6. Amending the Rules

6.1 Subject to Rule 6.3 and Rule 16, the Principal Employer may at its sole discretion amend, alter, rescind or add to any provision of these Rules, including this Rule.

6.2 The Principal Employer undertakes to make any amendments or additions to these Rules that are required by law.

6.3 The Principal Employer must effect any amendment made under Rule 6.1 by a resolution of the States approving written amendments to the Rules.

6.4 The Principal Employer must not without a resolution of the States amend these Rules in a manner which would or might:

- (a) change the sole purpose of the Scheme;
- (b) prejudice the Scheme's status as a Registered Pension Scheme or a Qualifying Recognised Overseas Pension Scheme; or
- (c) detrimentally affect the subsisting rights of a Member, unless:
 - (i) the Principal Employer has taken steps to ensure that the actuarial value of the Member's benefits must be maintained after the amendment is made and the Actuary has provided a statement of actuarial equivalence; or
 - (ii) the Member whose subsisting rights are affected by the amendment consents to the amendment in writing, or consultation has taken place in accordance with Rule 16.

6.5 The power in Rule 6.1 may be exercised at any time, including retrospectively. If the power is exercised retrospectively, the Principal Employer may administer the Scheme, until the States have approved new Rules making retrospective amendments to these Rules, as if the amendments were already effective.

7. Scheme Assets

7.1 The Principal Employer holds the Scheme Assets to be applied in accordance with and subject to the provisions of these Rules.

7.2 No Member has an interest in any surplus that arises in the Scheme.

8. Tax registration

8.1 The Scheme qualifies as a Registered Pension Scheme and as a Qualifying Recognised Overseas Pension Scheme.

8.2 The Principal Employer must provide any information to the Income Tax Office that is properly required to satisfy any legal requirement necessary to ensure that contributions are deductible for tax purposes.

9. Equal treatment

To the extent necessary to comply with any anti-discrimination and equality legislation that is now or at any time in the future introduced in Guernsey, these Rules are deemed to include a non-discrimination rule so as to prevent a Member from being treated less favourably than another Member.

10. The Committee

10.1 The Committee is responsible for administering the Scheme and for making recommendations to the Principal Employer concerning the benefits and contributions to be payable to, or by, Members and or an Employer, and shall report as may be necessary to the States on the Scheme including making any recommendations on any changes to benefits, contributions, these Rules or any other matter as they shall consider appropriate.

10.2 The Committee may delegate all or any of their responsibilities to a sub-committee, and may amend or revoke in whole or in part that delegation at any time. The provisions of these Rules apply equally to the sub-committee to the extent that they are exercising functions and responsibilities on behalf of the Committee.

10.3 If the Committee wishes to increase the benefits but not contributions under the Scheme, (whether they are payable at that time or are payable in the future to a Deferred Member), any resolution of the Committee to that effect shall be valid and effective as if it had been passed by the States. A resolution of the Committee under this sub-Rule shall be forwarded to the President of the Policy & Resources Committee as soon as practicable for publication in a Billet d'État at the next opportunity.

10.4 The Principal Employer may at any time transfer the functions under these Rules from the Committee to another designated committee, sub-committee or body.

11. Committee: decisions, exercise of discretions and confidentiality

- 11.1 The Committee may exercise any discretion conferred on it by these Rules absolutely and as it considers appropriate, provided that the Committee must not take any step to prejudice the Scheme's status as a Registered Pension Scheme or a Qualifying Recognised Overseas Pension Scheme or the eligibility of Members to claim tax benefits against their contributions. In exercising its discretion about whether any benefit should be paid to any person under the Scheme, the Committee is not required to consider the claim of any person except a Beneficiary (or a potential or contingent Beneficiary) whose existence has been expressly notified to the Committee or whom the Committee can identify by making reasonable enquiries.
- 11.2 Subject to Rule 6, the Committee may ratify, alter or revoke any decision taken by it about the Scheme (including any exercise of discretion and any administrative act or omission) if it considers that doing so would not have a materially detrimental effect on the Scheme (including on the benefits paid to a Member), provided that if the consent of the States was required to a decision or act, that consent must be obtained to any ratification, alteration or revocation of the Committee's initial decision.
- 11.3 If the Committee is required to obtain the consent of an Employer to a decision or exercise of discretion, it is entitled to treat written instructions received from a director or senior authorised officer of the Employer as confirmation of that Employer's consent.
- 11.4 In administering the Scheme, the Committee may decide any matter of doubt arising under these Rules about an issue of fact or law. In considering any issue of fact, the Committee may act on the basis of such evidence it considers appropriate, provided that it may accept any information about a Beneficiary supplied by an Employer as conclusive evidence without further enquiry (except in cases of manifest error).
- 11.5 If any time limit for taking any step is specified by these Rules, the Committee may waive or vary that time limit as it considers appropriate, except in the case of any time limit prescribed by law.
- 11.6 If a member or officer of the Committee holds information which they are under a duty to an Employer to keep confidential (either under the general law or by agreement) (Confidential Information), then that member or officer of the Committee is entitled to refuse to disclose the Confidential Information to any person (including another member of the Committee), provided that as soon as reasonably practicable after first receiving the Confidential Information (or ascertaining that the Confidential Information may be relevant to the Scheme) the member or officer of the Committee notifies the Committee in writing that he is subject to a conflict of duty and indicates whether or not it is appropriate that he participates in any future discussion about that matter.

- 11.7 Nothing in this Rule imposes any more onerous duty of confidentiality on a member or officer of the Committee than he would be subject to under the general law.

12. Committee: administration and delegation powers

- 12.1 The duties to administer and manage the Scheme are vested in the Committee. The Committee must establish and operate internal controls in accordance with accepted standards of corporate governance adopted by the States of Guernsey including Rules relating to the Constitution and Operation of States Departments and Committees, Code of Conduct for States Members and Code of Conduct for Civil Servants (as relevant). In discharging its powers, the Committee may make such regulations or rules relating to the administration and management of the Scheme as it considers appropriate, including the power to constitute one or more sub-committees on such terms as the Committee considers appropriate, provided that such regulations or rules do not conflict with these Rules or the corporate governance requirements referred to in this Rule.
- 12.2 Subject to Rule 17 of these Rules, the Committee may, on such terms as it considers appropriate:
- (a) delegate any of its powers, duties or discretions to any person, for such purpose and for such duration as the Committee considers appropriate;
 - (b) authorise any person to provide receipts or discharges; and
 - (c) engage any person to assist in administering the Scheme.
- 12.3 A delegate, agent or consultant appointed by the Committee under Rule 12.2 may receive such remuneration as the Committee considers appropriate, payable as an expense of the Scheme under Rule 32.
- 12.4 The Committee is not obliged to disclose any documents, information or records relating to the Scheme (in whole or in part) unless ordered to do so by a court or a tribunal of competent jurisdiction. But this duty does not affect the Committee's obligation to disclose such information, make such statements and provide (or make available) copies of such documents to Beneficiaries, the States, Employers or others as may be reasonably required by the rules of good corporate governance to which the Committee is subject or pursuant to any relevant legal requirement.
- 12.5 Any notice that the Committee is required to provide to a Beneficiary under these Rules is deemed to have been properly provided if the Committee has sent the notice in writing to the Beneficiary's address most recently known to

the Committee or (in the case of an Active Member) to the address of the Member's usual place of employment.

- 12.6 Any notice of a matter that these Rules requires to be given to the Committee must be given in such form and manner required by the Committee, with such supporting evidence (if any) as the Committee may stipulate.
- 12.7 The Committee may publish announcements or provide information about the Scheme to a Beneficiary in such written form as it considers appropriate. Information disclosed to a Beneficiary may be given by means of Electronic Communication, provided that the Beneficiary is entitled to notify the Committee in writing that he does not want to receive such information by this means. If a Beneficiary notifies the Committee accordingly, the Committee must continue disclosing information to him in a suitable non-electronic written form.

13. Litigation and disputes

- 13.1 The Committee may take any step that it considers necessary to maintain the Scheme Assets or the rights of Beneficiaries, consistent with the purposes of the Scheme and provided that the Committee is not obliged to start, continue or defend any legal proceedings concerning the Scheme. Without prejudice to the generality of this power, such steps may include:
 - (a) starting, continuing, defending, settling or compromising legal proceedings about any dispute of fact or law in connection with the Scheme or any Beneficiary's rights under it (whether in court or before a tribunal and including submitting any matter to arbitration, mediation or any other form of alternative dispute resolution); and
 - (b) guaranteeing the payment of any sum or the performance of any obligation or indemnifying any person against any liability, loss or expense.

- 13.2 The Committee may put in place arrangements for the resolution of disputes about matters relating to the Scheme including alternative dispute resolution procedures including mediation and or expert determination. Any agreement or determinations under these arrangements are final and binding on all persons including Members even if they have not been party to those arrangements.

14. Accounts and records

- 14.1 The Committee must ensure that at all times it complies with the record-keeping requirements as required by the Principal Employer. Without prejudice to these requirements, the Committee must keep and maintain the following:

- (a) accounts for the Scheme, including records of all expenditure from the Scheme during a Scheme Year (both the payment of benefits to Beneficiaries and otherwise). The accounts must be submitted each year to the Auditor appointed in accordance with Rule 17.2;
 - (b) records of meetings of the Committee, including any decisions taken at such meetings. Any minute of a meeting of the Committee that has been signed by the President or chairman is conclusive evidence of the decisions taken at that meeting;
 - (c) records of the Scheme's membership, including the dates on which Members joined the Scheme, left Pensionable Service and reached Normal Pension Age (as appropriate);
 - (d) records of the Member Contributions and AVCs paid to the Scheme;
 - (e) records of any complaints made by Members or disputes with Members, including details of the resolution of those complaints or disputes; and
 - (f) records of the identity of the Participating Employers, the amounts of Ordinary Employer Contributions and Special Employer Contributions paid in accordance with Rule 30 and any other amounts received by the Scheme.
- 14.2 If the Committee keeps any records required by Rule 14.1 in electronic form, it may destroy any corresponding paper records, which have been kept and which are also in electronic form.
- 14.3 The Committee must obtain audited accounts for a Scheme Year as soon as reasonably practicable after the end of that Scheme Year and in any event no later than is necessary to present those accounts to the States (together with the other accounts of the States).
15. **Dealings with the Committee**
- 15.1 A person dealing in good faith with the Committee need not question or investigate:
- (a) whether the Committee can or should properly exercise a purported power or discretion;
 - (b) the authority of the Committee to transfer money or assets to him; or
 - (c) how the Committee applies money or assets paid by him to the Committee.

- 15.2 A person dealing in good faith with any person appointed, delegated or authorised by the Committee under Rule 12.2 may assume and act on the assumption that the person has been properly appointed, delegated or authorised by the Committee unless he has received notice in writing from the Committee that its authority has been revoked.
- 15.3 A receipt signed by any member or officer of the Committee is a complete discharge to any person dealing in good faith with the Committee.
- 15.4 Any dealing by a person acting in good faith with the Committee (or a person appointed, delegated or authorised by the Committee) referred to in this Rule is deemed to be valid and has full effect.

16. Consultation with the Pensions Consultative Committee

- 16.1 The Committee shall consult with the Pensions Consultative Committee on any decision that relates to:
- (a) increase in Member Contributions including under Rule 30;
 - (b) alterations to benefits payable under the Scheme;
 - (c) any proposed amendments to the Rules; and
 - (d) such other matters of general relevance to Members (other than specific cases) as the Committee and the Pensions Consultative Committee shall agree.
- 16.2 The Committee shall in good faith take into account representations made to them by the Pensions Consultative Committee subject nevertheless to the Committee's overriding duty to the States and the Scheme.
- 16.3 The Pensions Consultative Committee shall be constituted as agreed by the Principal Employer from time to time with equal numbers of representatives nominated by the Committee and members nominated by the Association of States Employees' Organisations and one additional Member nominated by the Retired States Employees' Association.

17. Appointing professional advisers

- 17.1 The Committee must appoint in writing from time to time on such terms as it considers appropriate an Actuary. The Actuary must:
- (a) be a Fellow of the Institute and Faculty of Actuaries;
 - (b) not be prohibited from acting as Actuary by section 27 of the Pensions Act 1995 (as if that Act applied in Guernsey); and

- (c) provide valuations and reports in accordance with Rule 18.
- 17.2 The Committee must appoint in writing from time to time on such terms as it considers appropriate an Auditor. The Auditor must:
- (a) be an individual or firm qualified to act as statutory auditor of a private company under section 260 of the C(G)L 2008;
 - (b) not be prohibited from acting as Auditor by section 27 of the Pensions Act 1995 (as if that Act applied in Guernsey); and
 - (c) audit the Scheme's accounts in accordance with Rule 14.3.
- 17.3 The Auditor may be the same auditor appointed by the States to audit the States financial statements.
- 17.4 The Committee must appoint in writing from time to time one or more investment managers for the Scheme Assets to whom the Committee may delegate its investment powers in connection with the Scheme Assets. An investment manager appointed under this Rule must be authorised under any relevant financial services legislation including FSMA 2000 and must manage the investment of the Scheme Assets in accordance with Rule 20.
- 17.5 The Committee may from time to time appoint in writing any medical practitioner, financial adviser or other professional whom the Committee considers competent to give advice on such terms as it considers appropriate for the purposes of advising the Committee in the administration of the Scheme.
- 17.6 The Committee may remove any professional adviser appointed under this Rule by giving them notice in writing.
- 17.7 Subject to Rule 25, the Committee may in good faith rely and act on the advice or opinion of any professional adviser duly appointed under this Rule and is not liable for any loss to the Scheme arising from such reliance.
- 17.8 The costs and expenses incurred in engaging any adviser under this Rule may be paid as an expense of the Scheme in accordance with Rule 32.

18. Actuarial valuations

The Committee must commission from the Actuary such valuations and reports as it considers appropriate. Valuations must be commissioned on the basis that the effective date of each valuation is not more than:

- (a) one year after the effective date of the previous valuation; or

- (b) three years after the effective date of the previous valuation if the Committee has obtained a report from the Actuary in each of the intervening years.

19. Personal interests of a Committee officer

- 19.1 A Committee officer who is also a Beneficiary may retain any benefits to which he is entitled under the Scheme and is not obliged to account for any such benefits.
- 19.2 A Committee officer who is also a Beneficiary or has any other direct or indirect personal interest in any decision to be made or power or discretion to be exercised by the Committee must disclose his personal interest in the Scheme at the start of each meeting of the Committee.
- 19.3 No decision of a Committee officer or the exercise of any power or discretion under the Scheme by a Committee officer is invalidated on the basis that the Committee officer is also a Beneficiary or has any other direct or indirect personal interest in the outcome.

20. Committee's investment powers

- 20.1 Subject to Rule 20.2 and Rule 20.3, the Committee has the power to invest the Scheme Assets as if it were absolutely and beneficially entitled to them. The Committee may invest or apply the Scheme Assets in any manner, whether or not involving liability or producing income, and whether or not authorised by law as an appropriate investment of trust assets.
- 20.2 Without prejudice to Rule 20.1, the Committee must only invest or apply all of the Scheme Assets in accordance with the States of Guernsey Permitted Investment (Amendment) Rules, 2015, as amended from time to time. The Committee shall adopt a written Statement of Investment Principles and may amend this from time to time but the Statement of Investment Principles must at all times be in compliance with the States of Guernsey Permitted Investment (Amendment) Rules, 2015, (as amended from time to time).
- 20.3 In exercising its powers of investment for the Scheme Assets, the Committee:
 - (a) may take any further steps necessary to discharge any of the powers referred to in Rule 20.2;
 - (b) must not carry on a trading activity;
 - (c) must not make any loan to a Member or Beneficiary which is unsecured or secured against his interest in the Scheme, or guarantee the repayment of all or part of a loan made to a Member or Beneficiary.

- 20.4 The Committee must maintain and, from time to time, review and revise the written Statement of Investment Principles relating to the Scheme Assets, provided that:
- (a) nothing in the Statement of Investment Principles requires the Committee to obtain the consent of the Principal Employer before it exercises any investment powers; and
 - (b) in reviewing or revising the Statement of Investment Principles, the Committee must from time to time obtain the consent of any designated committee or other part of the States who has been delegated to manage, implement, review or revise the Statement of Investment Principles.
- 20.5 The Committee may borrow any sum in any currency in the exercise of any of its powers under the Scheme. In exercising this power, the Committee may,
- (a) secure performance of any obligation on such terms as it considers appropriate; and
 - (b) charge any sum borrowed.
- 20.6 The Committee may from time to time maintain a reserve fund in cash with any bank or institution deemed appropriate. In maintaining the reserve fund, the Committee must have regard to the likely demands on the income of the Scheme from time to time.
- 20.7 The Committee may accept donations or bequests from any person or company to be applied for the purposes of the Scheme.
- 20.8 In exercising its powers in this Rule, the Committee may give any guarantee, warranty or undertaking as it considers necessary in entering into a transaction with another party.

21. Delegation of investment powers and administration of investments

- 21.1 The Committee are not obliged to open and operate any separate bank account, and may operate through any bank account of the States, but the States may do so on such terms as it considers appropriate and shall be entitled to delegate the operation of the bank account to the Committee or any designated committee or other part of the States.
- 21.2 The Committee may appoint on such terms as it considers appropriate any:
- (a) custodian, to hold documents of title of any of the Scheme Assets in safe custody (whether within or outside Guernsey);

- (b) nominee, in whose name any investment of the Scheme Assets may be made, and to whom the Committee may delegate any of its relevant powers and discretions.
- 21.3 In appointing a custodian or nominee under this Rule, the Committee may enter into an agreement on commercial terms (including about remuneration, sub-delegation and the appointment of sub-nominees or agents).
- 21.4 The Committee must take all such steps as are reasonable to satisfy itself that an investment manager appointed under Rule 17.4:
 - (a) has the appropriate knowledge and experience for managing the investments of the Scheme; and
 - (b) is carrying out his work competently.
- 21.5 If the Committee appoints a nominee under Rule 21.2, the Committee may allow the nominee to pass any documents of title relating to the Scheme Assets to a custodian of the nominee's choosing.
- 21.6 Any documents of title held by a custodian appointed by the Committee or the Committee's nominee must be held to the order of the Committee (or the nominee as the case may be) and the Committee is not responsible if they are lost or destroyed.
- 21.7 The Committee may remove any custodian, nominee or investment manager it has appointed by giving such notice in writing as it may from time to time decide.

22. Payment of benefits: general provisions

- 22.1 The Committee may make such arrangement as it considers appropriate for the payment of benefits under the Scheme.
- 22.2 A pension payable to a Beneficiary under the Scheme is (subject to any other Rule) payable for the remaining lifetime of the Beneficiary and paid in equal weekly or monthly instalments in arrears on such date as the Committee may determine, provided that:
 - (a) if the first regular payment date falls after the date the pension comes into payment under these Rules, the Committee may vary the amount of the first instalment to take into account the additional period of entitlement;
 - (b) a pension is ordinarily payable in pounds sterling and if for any reason a pension is payable in any other currency, the Committee may convert

the pension into the other currency at a rate of its choosing and the Beneficiary concerned must pay the cost of such conversion;

- (c) the Committee must notify a Beneficiary in advance of the date his pension is due to start and of any changes to the regular payment date; and
- (d) if the Committee considers that the amount of the pension payable is insufficiently large to justify its payment in equal weekly or monthly instalments, it may pay the pension at such other intervals as it considers appropriate (which must be no less often than annually).

22.3 Before starting to pay a benefit due under the Scheme to a Beneficiary, (or at any other time) the Committee may write to the Beneficiary at his last known address asking him to:

- (a) confirm his existence. If the Committee receives no response from the Beneficiary within such reasonable period as it may specify, it may assume he is no longer alive and is not required to take any further steps to trace the Beneficiary; and
- (b) provide such other information or evidence as it considers appropriate, including such written consent as is necessary to enable the Committee to comply with the requirements about the processing of personal data contained in The Data Protection (Bailiwick of Guernsey) Law 2017.

22.4 In calculating benefits due to a Beneficiary, the Committee may round instalments to avoid fractional payments.

22.5 A benefit due to a Beneficiary under the Scheme may not be put into payment if more than six years have passed from the date on which the Beneficiary became entitled to receive the benefit and the Beneficiary has not claimed the benefit. But the Committee may allow arrears of such unpaid benefits to be paid if it considers appropriate.

22.6 If the Committee ascertains that it has relied on incorrect information in determining the amount of a benefit payable to a Beneficiary under the Scheme (including information about the Beneficiary's age, marital status or state of health and whether that information was supplied inadvertently or deliberately and including a failure to disclose material information or correct inaccurate records held by the Committee), the Committee may amend the benefit and instead pay the benefit calculated on the basis of correct information. If a Beneficiary has received an overpayment of benefits as a result, the Committee may reduce future instalments of any pension due to the extent necessary to recover the overpayment.

- 22.7 If a Beneficiary is a minor or is suffering from any mental or physical incapacity which in the opinion of the Committee renders him incapable of managing his affairs, the Committee may:
- (a) pay or apply to any person for the Beneficiary's maintenance or on his behalf any benefit to which the Beneficiary is entitled under the Scheme, including any Dependant, guardian or the trustees of any irrevocable trust or settlement established for his benefit; or
 - (b) make any election or deem as given any notice required under these Rules on behalf of the Beneficiary concerned.
- 22.8 For the purposes of Rule 22.7, the Committee may accept as conclusive evidence of a Beneficiary's state of health the opinion of a qualified medical practitioner.
- 22.9 If a Beneficiary is imprisoned or detained in legal custody while his pension under the Scheme is being paid, the Committee may pay the pension to a Dependant of the Beneficiary instead for the duration of the Beneficiary's imprisonment or detention.
- 22.10 Subject to Rule 23, the Committee may deduct from any benefit due to a Beneficiary an amount corresponding to any tax that it is liable to pay or account for to the Income Tax Office or any other tax authority.
- 22.11 The Committee may exercise the power contained in Rule 22.10 in circumstances where it is jointly liable with any other person to pay tax.
- 22.12 No interest shall accrue on any amount payable under these Rules that is paid after its due date unless otherwise specified in these Rules or the Committee and the Principal Employer decide to pay interest.

23. Prohibition on assignment and forfeiture of benefits

- 23.1 Subject to Rule 23.2, a benefit or prospective benefit under the Scheme is forfeited and no longer payable if:
- (a) a person entitled to the benefit assigns or charges the benefit (or tries to do so); or
 - (b) an event occurs by which all or part of the benefit or prospective benefit would become payable to some other person, were it not for this Rule.
- 23.2 If a benefit or prospective benefit is forfeited under Rule 23.1, the Committee may apply some or all of the benefit or prospective benefit otherwise due to support and maintain the Beneficiary or any Dependant, but the Committee

must make no payment in favour of an assignee or chargee (or purported assignee or chargee).

24. Reducing benefits because of a charge, lien or set-off

24.1 The Committee may impose a charge, lien or set off on a Member's benefits including any refund of contributions (whether or not in payment) if the Member is liable to pay a sum to his Employer or the Scheme or to the States of Guernsey in whatever capacity for whatever reason including as a result of a criminal, fraudulent or negligent act or omission by him or in respect of any debt.

24.2 If a charge, lien or set-off has been imposed under Rule 24.1, the Committee may reduce the Member's benefits by an amount which the Actuary advises is equal to the debt owed to the Scheme or the Employer on the date the debt arose. If the debt exceeds the value of the Member's benefits, the benefits must be stopped. In deciding the reduction to make, the Committee may take into account the value of any benefits payable on the Member's death, but the Committee must not reduce the following benefits:

- (a) benefits payable following a transfer payment to the Scheme;
- (b) benefits payable to a Spouse, Qualifying Partner or Qualifying Child.

24.3 The Committee must certify to the Member in writing the amount of the debt due to the Scheme or the Employer and the amount by which his benefits have been or will be reduced.

24.4 If the Member disputes the charge, lien or set-off, the Committee must not reduce his benefits until the debt due to the Scheme or the Employer has become enforceable under a court order or under any other dispute resolution procedure.

24.5 An Employer may deduct from its Ordinary Employer Contributions payable under Rule 30 an amount equal to the debt owed by the Member to the Employer or, if less, the value of the Member's benefits as determined by the Actuary.

25. Committee liability: limitations

25.1 The Committee is not liable for any liability arising from:

- (a) any fall in the market value of the Scheme Assets from time to time;
- (b) any failure by a Member to receive his benefits due under the Scheme if this failure is attributable to the method by which benefits are paid;
- (c) the payment of any benefits due under the Scheme to the wrong person;

- (d) any failure to recover overpayments of pension instalments made to a Member after the Member has stopped being entitled to receive a pension; or
 - (e) any failure to ensure the safety of any documents of title deposited by the Committee with a custodian or otherwise;
 - (f) any act or omission of a nominee, agent or person to whom the Committee has delegated any of its powers under Rule 12.2; or
 - (g) any personal liability of a Committee member that is exempted under Rule 26 or for which the Committee is granted relief by the court.
- 25.2 The Committee is not obliged to take any steps to recover any loss arising as a result of any of the acts or omissions referred to in Rule 25.1.
- 26. Committee liability: exemption and indemnity**
- 26.1 A Committee officer is not personally liable arising from any breach of duty or trust under the Scheme unless the breach is caused by:
- (a) his fraudulent or dishonest conduct; or
 - (b) his wilful neglect or default.
- 26.2 The Principal Employer is liable to indemnify a Committee officer for any liability he incurs, provided that this indemnity does not apply:
- (a) to any liability for which a Committee officer is personally liable under Rule 26.1(a) or Rule 26.1(b); or
 - (b) to the extent that there is insurance available to a Committee officer under a policy of insurance taken out by the States (in whatever capacity).
- 27. Principal Employer: covenants and replacement**
- 27.1 The Principal Employer covenants to observe and perform the provisions of these Rules insofar as they relate to it.
- 27.2 No provision of these Rules may be construed as imposing on an Employer a contractual obligation to restrict the right of an Employer to terminate an Employee's service. Nor may any provision of these Rules be used to increase damages or compensation sought by an Employee in any action, counter-claim or proceedings brought by an Employee against an Employer about the termination of his employment.

- 27.3 Subject to Rule 11, the Principal Employer may ratify, alter or revoke any decision taken by it concerning the Scheme (including any exercise of discretion and any administrative act or omission) if it considers that doing so would not have a materially detrimental effect on the Scheme (including on the benefits paid to a Member), provided that if the Committee's consent to a decision or act was required, the Committee's consent must be obtained to any ratification, alteration or revocation of the Principal Employer's initial decision.

28. Participating Employers: admission to the Scheme

- 28.1 Subject to Rule 28.2 at the direction of the Principal Employer the Committee must admit any Participating Employer, including as a Temporary Participating Employer, provided this does not prejudice the Scheme's status as a Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme. A new Participating Employer must execute a participation agreement with the Principal Employer and the Committee in a form stipulated by the Principal Employer and must covenant with the Committee that it will discharge the duties and obligations imposed on it as a Participating Employer under these Rules.
- 28.2 A Participating Employer may be admitted under Rule 28.1 on special terms determined by the Principal Employer, in connection with the calculation of Member Contributions, provided these do not prejudice the status of the Scheme as a Registered Pension Scheme or Qualifying Recognised Overseas Pension Scheme.
- 28.3 A Participating Employer must take all steps required by the Committee that are necessary for the running of the Scheme, including providing to the Committee any information it reasonably requests for use in running the Scheme.
- 28.4 A Participating Employer must pay contributions to the Scheme in accordance with Rule 30.
- 28.5 The Committee or Principal Employer may terminate the participation in the Scheme of any Participating Employer by giving notice in writing if either considers the Participating Employer to be in breach of any of its obligations under the Scheme (including but not limited to a failure to pay contributions due under the Scheme), provided the Participating Employer has first been given notice in writing requiring any breach to be remedied within 30 days (or such longer period as the Committee or Principal Employer may allow) and such notice has expired without the breach being remedied.

29. Actuarial Deficit or Surplus

29.1 If a valuation or report of the Actuary under Rule 18 identifies that the value of the Scheme Assets is less than the Scheme's liabilities, the Committee should consider such steps acting on the advice of the Actuary as to how the deficit may be remedied. Without limitation, these steps may include:

- (a) requiring the Employers to pay Special Employer Contributions in accordance with Rule 30;
- (b) entering into alternative arrangements with the Principal Employer that provide for the deficit to be eliminated over such period as may be agreed with the Principal Employer or provides for an informal guarantee, letter of comfort or indemnity in relation to securing the deficit; and
- (c) Subject to Rule 30, amending these Rules in accordance with Rule 6.

29.2 If a valuation or report of the Actuary identifies that the value of the Scheme Assets exceeds the Scheme's liabilities, the Committee may consider such steps as it considers appropriate acting on the advice of the Actuary to apply the surplus. Without limitation, these steps may include:

- (a) retaining the surplus in the Scheme to cover future liabilities;
- (b) reducing Ordinary Employer Contributions or Member Contributions for such period as the Actuary considers appropriate;
- (c) improving the benefits granted to Members or granting additional benefits to Members; or
- (d) allocating the surplus for the benefit of Beneficiaries or the Employers in such other manner as may be permitted by law.

30. Participating Employers: paying contributions, Cost Cap and Cost Floor

30.1 An Employer must pay to the Committee Ordinary Employer Contributions at the rate as the Committee may from time to time by resolution decide having obtained the advice of the Actuary.

30.2 The Ordinary Employer Contributions payable by the Principal Employer and determined by the Committee in a year of assessment to this Scheme must not exceed

- (a) in the case of CARE New Members 14%; and

- (b) in the case of CARE Transition Members and Final Salary Protected Members 14.5%,

of the Member's Pensionable Salary for that year of Service (the Cost Cap). The actual contribution shall be that made in accordance with the provisions of this Rule 30.

- 30.3 The Employer's contribution paid on Salary in excess of the Earnings Cap is at the rate of 12% of that excess Salary. Such contribution is paid to the Defined Contribution Scheme and notionally credited to the Member's DC Account.
- 30.4 The Ordinary Employer Contributions payable by the Principal Employer will be reviewed and compared with the Cost Cap every three years to coincide with the Actuarial Valuations carried out under Rule 18, the first review to be with effect from the valuation due on 31st December 2019.
- 30.5 At each review, if the cost of the Scheme would result in the Ordinary Employer Contributions rate payable by the Principal Employer exceeding the Cost Cap, negotiations will take place through the Pensions Consultative Committee to either reduce the future accrual rates for Pensions or to increase Member Contributions or both to bring the Ordinary Employer Contributions to the Cost Cap. The default position, in the absence of agreement, will be a reduction in the future accrual rates. The Ordinary Employer Contribution rate for the purposes of comparison with the Cost Cap in Rule 30.4 (and the Cost Floor in Rule 30.8) will only include:
 - (a) the Future Service Contribution Rate less Member Contributions; and
 - (b) any past service costs or savings in relation to the Scheme in relation to Pensionable Service from the Transition Date relating to improving or reducing longevity of Active Members.

The **Future Service Contribution Rate** means the rate to be paid in respect of the cost of future Service accrual.

- 30.6 The calculation of Ordinary Employer Contributions for comparison with the Cost Cap in Rule 30.4 (and the Cost Floor in Rule 30.8) will identify any change in Members' costs which relate to the profile and options of Members including changes in life expectancy, changes to the age profile of the membership, changes to the way Members select options, changes to the dependency details and the incidence of leavers and retirements.
- 30.7 For the avoidance of doubt those elements of the change in the calculation of Ordinary Employer Contributions for comparison with the Cost Cap in Rule 30.4 (and the Cost Floor in Rule 30.8) which are Employer's costs, being those decisions and assumptions that must be made to carry out a valuation and are financial and technical in nature, including changes to the discount rate (which

may be driven by a change in investment strategy), actuarial methodology for calculating Scheme costs and changes in the price inflation assumption, shall be the responsibility of the Employer.

- 30.8 If following a valuation the Principal Employer Ordinary Employer Contributions are (in the case of CARE Transition Members) below 10.5% of the Member's Pensionable Salary and (in the case of CARE New Members) below the Member Contributions (the Cost Floor), negotiations will take place as described in Rule 30.5 as to whether the Members' Contributions will be reduced or the accrual rate increased (or both) to bring the Principal Employer's Ordinary Employer Contributions to the Cost Floor. If there is no agreement as to whether to reduce Members' Contributions or increase the accrual rate the default position is to increase the accrual rate.
- 30.9 The Employer shall bear the investment risk, and if a shortfall arises by reason of a failure to achieve the targeted investment returns or for another reason arising from the Employer's costs, then the total contributions paid by the Principal Employer may be increased above the Cost Cap to meet the costs arising from the Employer's costs. Equally, if higher than targeted returns are achieved from the investment risk, the total Employer contributions may be decreased below the Cost Floor to reflect the surplus arising from the increased returns or other reason arising from the Employer's costs.
- 30.10 An Employer must pay to the Committee such Special Employer Contributions as are required by the Committee and approved by the States by resolution from time to time, having obtained the advice of the Actuary, to reduce or eliminate any deficit in the Scheme identified by the Actuary in a valuation or report under Rule 18.
- 30.11 Any Special Employer Contributions payable by an Employer may be paid in such instalments and over such period agreed by the Committee, having obtained the advice of the Actuary.
- 30.12 An Employer must pay to the Committee any amounts for which it is liable in accordance with this Rule 30.
- 30.13 A Participating Employer may suspend or terminate its further liability to pay Ordinary Employer Contributions (but not Special Employer Contributions) to the Scheme by giving at least 30 days' notice in writing to the Committee, having first obtained the consent of the Principal Employer. If the Committee receives such notice, it may suspend or reduce the accrual of further benefits and the payment of death in Service benefits to Members and their Dependants for the duration of the suspension.
- 30.14 An Employer must pay to the Committee an amount equal to the Member Contributions paid by Active Members in its employment.

30.15 The Committee must prepare, and from time to time review and if necessary revise, a schedule of contributions and all contributions payable by an Employer under this Rule are payable in accordance with it.

30.16 If an Employer pays Ordinary Employer Contributions or Special Employer Contributions to the Scheme in error, the Committee may return them subject to any requirements of the Income Tax Office.

31. Participating Employers: consequences of stopping participation

31.1 A Participating Employer stops participating in the Scheme if any of the following events take place

- (a) a Participating Employer gives notice in writing to the Committee under Rule 30.13 terminating its liability to pay Ordinary Employer Contributions (but that notice can only be accepted on the basis that it cannot terminate its liability to pay Special Employer Contributions) to the Scheme (and such notice expires without being withdrawn or cancelled);
- (b) the Committee or Principal Employer gives notice in writing to a Participating Employer that it has terminated the Participating Employer's participation in the Scheme under Rule 28.5 (and such notice expires without being withdrawn or cancelled);
- (c) the period of participation of a Temporary Participating Employer expires;
- (d) the Participating Employer shall in the opinion of the Committee have become subject to an Insolvency Event, or shall cease to carry on its activities or indicates that it proposes to do so, or the Committee otherwise considers that it is expedient to terminate the Participating Employers participation in the Scheme; or
- (e) the Committee considers that the continued participation of a Participating Employer would prejudice the Scheme's status as a Registered Pension Scheme or a Qualifying Recognised Overseas Pension Scheme.

31.2 In cases of doubt, the Committee may decide the date on which a Participating Employer stopped participating in the Scheme following any of the events set out in Rule 31.1. Unless his Service transfers to another Employer, an Active Member must be treated as leaving Pensionable Service on the date of the cessation.

31.3 If a Participating Employer stops participating in the Scheme for any of the reasons set out in Rule 31.1, the Committee must calculate on the advice of the

Actuary the proportion of the Scheme Assets attributable to the Members employed or formerly employed by that Employer (Bulk Transfer Amount). The Bulk Transfer Amount must reflect such proportion of the costs and expenses relating to that Employer's cessation of participation as the Committee considers reasonable on the advice of the Actuary.

31.4 After ascertaining the Bulk Transfer Amount under Rule 31.3, the Committee may:

- (a) pay the Bulk Transfer Amount to another Registered Pension Scheme, subject to the requirements of these Rules;
- (b) keep the Bulk Transfer Amount within the Scheme and transfer the Pensionable Service of any or all Members concerned to another Employer.
- (c) keep the Bulk Transfer Amount within the Scheme and the Participating Employer remains liable for Special Employer Contributions under Rule 30.10

31.5 Any Member whose benefits are not transferred under this Rule is entitled to preserved benefits in the Scheme under Rule 46 and Rule 71 or Rule 81.

32. Expenses

32.1 The Committee is entitled to an indemnity from the Scheme Assets for all costs, charges and expenses incurred by it in connection with the administration of the Scheme.

32.2 The Employers must reimburse the Scheme for all amounts for which the Committee is indemnified from Scheme Assets, the apportionment between the Employers to be made as the Committee considers appropriate.

33. Transfers out of the Scheme

33.1 A Deferred Member may request the Committee to transfer the Cash Equivalent of his accrued benefits to a Receiving Scheme.

33.2 If approved under Rule 33.1, the Committee must pay a Cash Equivalent for the Deferred Member to the trustee or managers of the Receiving Scheme. Except in the case of a transfer under the PSTC the Committee must decide the amount to be transferred after obtaining the advice of the Actuary, provided that this amount is at least equal to the value of the benefits that would otherwise have been provided under the Scheme for the Deferred Member (Transfer Amount).

33.3 Subject to Rule 33.4, with the Principal Employer's agreement and after obtaining the advice of the Actuary, the Committee may arrange:

- (a) to transfer to a Receiving Scheme full or partial liability to provide benefits for a group or category of Members or Beneficiaries (Transferring Members) on payment by the Committee of a Transfer Amount for the Transferring Members; or
- (b) for a Receiving Scheme to provide alternative benefits instead of the benefits the Transferring Members are entitled to receive under the Scheme on payment by the Committee of a Transfer Amount for the Transferring Members.

33.4 A Transfer Amount payable under Rule 33.3:

- (a) may be paid without obtaining the consent of each Transferring Member; and
- (b) must not exceed the share of the Scheme Assets attributable to the Transferring Members.

33.5 After the Committee has paid a Transfer Amount in relation to a Member under Rule 33.2 or Rule 33.3, the Member is no longer entitled to receive any benefits under the Scheme and a receipt from the trustees or managers of the Receiving Scheme is a complete discharge for the Committee in connection with the Member.

34. Transfers into the Scheme

34.1 The Committee may accept a transfer of assets or investments for any person (Transfer-in Member) from another pension scheme which the Scheme is permitted to receive under the IT(G)L 1975 in each case approved by the Committee (Transferring Scheme), provided that:

- (a) the transfer is consistent with the Scheme's status as a Registered Pension Scheme and as a Qualifying Recognised Overseas Pension Scheme; and
- (b) the administrator of the Transferring Scheme has certified the element of the transfer payment comprising contributions made by the Transfer-in Member and the period of pensionable service in the Transferring Scheme.

34.2 Unless the transfer is under the PSTC the Committee must provide benefits in the Defined Contribution Scheme for a Transfer-in Member as it considers appropriate. The benefits provided must not prejudice the Scheme's status as a Registered Pension Scheme or as a Qualifying Recognised Overseas Pension Scheme. If the transfer is under the PSTC the Committee shall (unless

otherwise agreed with the Transfer-In Member) provide benefits under the CARE Scheme or the Final Salary Scheme whichever is required by the PSTC.

- 34.3 As soon as practicable after a transfer has taken place, the Committee must inform the Transfer-in Member of the benefits to be provided to him in the Scheme.

35. Members absent on leave for family reasons

- 35.1 The Committee must treat an Active Member who is on Paid Family Leave as remaining in Pensionable Service, subject to the following provisions of this Rule:

- (a) an Active Member's Salary and Pensionable Salary must be calculated as if he had continued in Service during the period of Paid Family Leave;
- (b) an Active Member on Paid Family Leave may elect to continue to pay Member Contributions to the Scheme in accordance with Rules 42 and 69, except that the Member Contributions must be calculated by reference to the Salary received by the Active Member during the period of Paid Family Leave, including any statutory maternity or paternity pay received by the Active Member;
- (c) if an Active Member shall elect to continue to pay Member Contributions under Rule 35.1(b) he shall also pay Member Contributions during any period of Unpaid Family Leave taken with the Paid Family Leave.

- 35.2 The Committee must treat an Active Member on Unpaid Family Leave as remaining in Pensionable Service only if the Active Member elects to continue to pay Member Contributions to the Scheme in accordance with Rule 42 or Rule 69. The Member Contributions due must be calculated by reference to the Salary received by the Active Member immediately before the period of Maternity Leave or Paternity Leave began.

- 35.3 If an Active Member returns to Service after a period of Maternity Leave or Paternity Leave, the Committee must treat the two periods of Pensionable Service as continuous. If the Active Member does not return to Service, the Committee must treat him as a Deferred Member and Rule 46 or Rule 81 applies.

- 35.4 The Committee may deduct from the Salary payable by an Employer to an Active Member the Member Contributions, and, if and so far as deductions are not made from the Salary of an Active Member, the Committee may recover any Member Contributions as a civil debt due to the Scheme, or may deduct

any remaining sum from any payment by way of Pension or other benefit under these Rules.

36. Members with more than one period of Pensionable Service

- 36.1 An Active Member's Pensionable Service may comprise one or more periods of Service.
- 36.2 If an Active Member has a period of unpaid leave or special absence from Service, this period does not count as Pensionable Service and a Member is not liable to pay Member Contributions during any such period unless the Committee otherwise agrees.
- 36.3 In calculating the benefits due to an Active Member who has accrued more than one period of Pensionable Service, the Committee must treat each period of Pensionable Service as separate except that if an Active Member is absent from work under a temporary secondment to another Employer, the Committee and the Principal Employer may agree to allow the Active Member to remain in Pensionable Service. The Active Member must pay Member Contributions for the duration of his secondment.

37. Citation

These Rules may be cited as The States of Guernsey (Public Servants) (New Pensions and other Benefits) Rules, 2016.

38. Coming into effect

The Rules came into force on the Transition Date and the amendments to these Rules come into effect from the date that the States by Resolution may appoint.

Part 2 – The CARE Rules

Note: these do not apply to the Final Salary Scheme unless expressly stated to do so.

39. Principles underpinning the Scheme and worked example.

- 39.1 Without prejudice to the discretion and powers vested in the Committee, this Rule 39 states the principles upon which the CARE Rules will operate.
- 39.2 The CARE Rules operate on a calendar year basis. A Member's Pensionable Salary will be determined for each calendar year. If the pay award is late, the basic pay will be assumed to be effective from the backdated date of the award. Pensionable pay supplements will be counted in the year they are received.
- 39.3 For example, a pay award due on 1 October 2016 is settled in February 2017. Back payments of basic pay and pensionable supplements are made in March

2017. For the purposes of calculating Pensionable Salary for 2016, the basic pay award will be counted from October 2016. The increased pensionable supplements will be counted in the 2017 calculation of Pensionable Salary.

- 39.4 Pensionable Salary will be determined for each calendar year and the accrued CARE pension calculated for that year. The first increase will apply immediately after the 31 December of the year following the year of accrual based on the RPIX for the previous June. For example, considering pension accrual for a CARE New Member:

Year	:	2016
Pensionable pay	:	£30,000
CARE accrual	:	$1/80 \times £30,000 = £375$
First increase	:	applies from the 1 January 2018, based on June 2017 RPIX (capped at 6%)

40. Joining the Scheme and Accruing Benefits

- 40.1 Subject to Rule 40.2, the Committee will admit an Eligible Employee to the Scheme as a CARE Active Member with effect from the date that his employment begins under his contract of employment with an Employer. A CARE Transition Member will be admitted and start accruing benefits with effect from the Transition Date.

- 40.2 The Committee may admit an Eligible Employee as a CARE Active Member, who had eligibility prior to the 1st May 2015 to join the Scheme by reason of

- (a) being a part time employee; or
- (b) being a person who entered Pensionable Service and is under the age of 18; or
- (c) a person who is on a fixed term contract or a contract to carry out specified work or on another temporary basis and is approved by the Committee to become a Member,

and who (in each case) has not previously opted to become a Member. In this case the Committee may require the Eligible Employee to:

- (i) provide such evidence of his age, marital status and state of health as the Committee may from time to time require; and
- (ii) undergo a medical examination if the Committee requires it (at the expense of the Committee).

- 40.3 If a person fails to provide any of the information required in Rule 40.2(i) or fails to undergo a medical examination if required under Rule 40.2(ii), the

Committee may only allow him to join the Scheme as a CARE Active Member with the consent of the Principal Employer. If the Committee considers the outcome of the medical examination to be unsatisfactory, it may refuse to admit that person to the Scheme unless directed otherwise by the Principal Employer.

40A Special transition provisions for Care Transition Members

Part 7 of these Rules contain special transition provisions for a Care Transition Member admitted and accruing benefits from the Transition Date and who has elected (as described in Part 7) to be subject to those special transition provisions. Those special transition provisions do not apply to any Care Transition Member who has not elected in accordance with Part 7 to be subject to those special transition provisions.

41. No Power to Opt out of Pensionable Service while in Service

An Active Member has no power to opt out of Pensionable Service while he remains in Service.

42. Active Members' Contributions

42.1 Subject to Part 7 an Active Member must pay Member Contributions to the Committee as follows:

- (a) For New CARE Members 7.5% of his Salary;
- (b) For CARE Transition Members 7% of his Salary; and
- (c) additionally for CARE Active Members who are members of the Guernsey Police Force or the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service, the Police and Fire-fighters Additional Contributions.

42.2 The Committee may amend the rate of Member Contributions from time to time in accordance with Rule 16 and Rule 30. The Committee must in turn notify the Active Members in writing and which for this purpose includes notification by Electronic Communication.

42.3 Contributions are subject to the provisions of Rule 30 including those relating to the Cost Cap and Cost Floor.

42.4 Contributions paid on Salary in excess of the Earnings Cap are payable into the Defined Contribution Scheme and are notionally credited to the Member's DC Account.

- 42.5 If, in consequence of ill health or injury, an Active Member suffers a reduction of Salary he shall contribute to the Scheme in accordance with Rule 42.1 on his reduced Salary.
- 42.6 If, in consequence of ill health or injury, the Salary of an Active Member is discontinued for any period then during that period he shall not be required to contribute to the Scheme.
- 42.7 If, in consequence of his incapacity to continue to discharge efficiently the duties of his office, an Active Member is transferred to another position at a reduced Salary, or otherwise suffers a reduction in Salary, or if an Active Member is, otherwise than owing to ill health or injury, on leave of absence at a reduced Salary or is for any reason on leave of absence without Salary he may, with the consent of the Committee, continue to contribute to the Scheme in the same amount as if his Salary had not been reduced or discontinued.
- 42.8 The Committee may return any Member Contributions that have been paid to the Scheme in error.

43 Payment of Reduced Contributions for Pensionable Service

- 43.1 At any time after he has completed 35 years' Pensionable Service an Active Member may (but is not obliged to) elect to pay one half Member Contributions or no Member Contributions by giving at least one month's notice in writing to the Committee.
- 43.2 An Active Member who elects under Clause 43.1:
- (a) to pay one half Member Contributions, is credited with one half Pensionable Service whilst making those reduced Member Contributions;
 - (b) to not pay Member Contributions, does not accrue further Pensionable Service for as long as he makes no Member Contributions,

but in both cases is treated as a CARE Active Member for revaluation and other purposes unless otherwise expressly stated in these Rules.

44. Defined Contribution Scheme

- 44.1 Subject to any terms and conditions imposed by the Committee on the operation of the Defined Contribution Scheme, an Active Member may pay AVCs to the Scheme in such amount as he wishes with a view to securing additional benefits under the Defined Contribution Scheme. AVCs payable by an Active Member in relation to the Defined Contribution Scheme must be notionally credited to that Active Member's DC Account.

- 44.2 An Active Member paying AVCs to the Defined Contribution Scheme may alter the rate at which AVCs are paid or stop or re-start payment by giving such notice in writing to the Committee as the Committee may from time to time require and subject to any terms and conditions imposed by the Committee.
- 44.3 The Committee must from time to time supply an Active Member who is paying AVCs into the Defined Contribution Scheme or contributions on Salary in excess of the Earnings Cap with written details of the investment vehicles offered by any investment manager appointed under Rule 17.4 to receive AVCs to the Defined Contribution Scheme, including any material changes to those details.
- 44.4 When an Active Member leaves Pensionable Service he must, before he reaches his seventy fifth birthday exercise one of the following options in relation to his DC Account by giving notice in writing to the Committee in the form prescribed by the Committee from time to time:
- (a) to receive a refund that is, in the opinion of the Committee, equivalent to the balance in the Member's DC Account relating to his Member Contributions;
 - (b) to transfer the value of his DC Account to a Receiving Scheme;
 - (c) to take the value of his DC Account as a lump sum (less any income tax that is payable) provided that the value of the DC Account does not exceed the sum of £15,000 (or such other amount as the Committee may from time to time designate);
 - (d) subject to the approval of the Committee and to Income Tax regulations:
 - (i) to take up to a maximum of 30% of the DC Account (or such other amount as the Committee may from time to time designate) as a lump sum; and
 - (ii) purchase an annuity with the remaining DC Account; or
 - (e) if the Member does not opt to receive the value of his DC Account under Rule 44.4 (a), (b), (c) or (d) or otherwise fails to exercise an option under this Rule 44.4, the investment of the Member's DC Account within the Defined Contribution Scheme shall continue until:
 - (i) he exercises an option under Rule 44.4 (a)-(d) (provided he does so before he reaches his seventy fifth birthday); or
 - (ii) the death of the Member and in which case the value of his DC Account will be paid under Rule 56 or Rule 87 (as appropriate).

but the Member may not make additional AVCs into his DC Account.

- 44.5 In the event that an Active Member leaves Pensionable Service but opts to remain in the Defined Contribution Scheme in accordance with Rule 44.4(e), he shall retain the choice to switch investment options at any time by completing the prescribed form of notification.
- 44.6 If an Active Member dies in Service, the value of his DC Account must be paid in lump-sum form and the provisions of Rule 54 and Rule 86 shall apply.
- 44.7 If a Deferred Member dies before benefits have come into payment Rule 56 and or Rule 87.1(d) shall apply.

45. AVCs – Additional Benefits

- 45.1 A CARE Transition Member may, with the consent of the Committee, and upon such terms as the Committee may approve, and subject to the receipt of a medical report satisfactory to the Committee, purchase additional benefits as the Committee may approve, in accordance with the provisions of Rule 45.2.
- 45.2 Additional annual pension in multiples of £300 may be purchased by the CARE Transition Member by way of lump sum or periodical contributions (ascertained and certified as payable by the Actuary), up to a maximum total additional pension of £6,000 per annum. Such additional pension payable shall be subject to increase from the date of purchase in accordance with the CARE Revaluation. The Committee shall be entitled to review and amend from time to time the £300 purchase multiple and the £6000 maximum total additional pension able to be purchased by a Member.
- 45.3 CARE Transition Members can elect at any time to pay AVCs to remove some or all of the actuarial reduction from their accrued CARE Scheme benefit in the event that they retire before the Normal Pension Age and on or after the Final Salary Normal Pension Age.

46. Benefits for early leavers of the CARE Scheme

- 46.1 Upon leaving Service an Active Member automatically leaves Pensionable Service.
- 46.2 If the Pensionable Service of an Active Member who leaves Service exceeds two years, he becomes a Deferred Member from the day after the date on which his Pensionable Service is deemed to end and is entitled to preserved benefits which are calculated in accordance with the provisions of Rule 46.6. If his Pensionable Service is less than two years, the Active Member is treated as having left the Scheme on the day after the date on which his Pensionable Service is deemed to end, but is entitled to receive a Contribution Refund together with interest (less tax) at a rate determined by the Committee from

time to time or he may request the Committee to make a transfer under Rule 33.

- 46.3 An Active Member who leaves Service may at any time elect to receive a Contribution Refund together with interest (less tax) at a rate determined by the Committee from time to time or request the Committee to make a transfer under Rule 33. The Committee must notify an Active Member of his right to make this election within a reasonable period after he leaves Service.
- 46.4 A CARE Transition Member who takes a Contribution Refund or transfer under Rule 46.3 must also take a Contribution Refund or transfer under Rule 71 of the Final Salary Scheme at the same time.
- 46.5 An Active Member shall not be entitled to a Contribution Refund under Rule 46.3 if the Committee pays a transfer value in respect of that Member.
- 46.6 A Deferred Member must receive a Pension calculated as a CARE Active Member while in Pensionable Service calculated under Rule 50 up until the date that he leaves Pensionable Service and then re-valued during his period of deferment by the CARE Revaluation applicable to a CARE Deferred Member.
- 46.7 With the Committee's consent, a Deferred Member may draw a Pension before reaching Normal Pension Age:
- (a) after attaining Normal Minimum Pension Age; or
 - (b) if he is suffering from Total Incapacity.
- 46.8 If a Deferred Member wishes to draw a Pension early under Rule 46.7, he must apply to the Committee not less than three months before the date on which he wishes to draw his Pension, (or such shorter period as the Committee may accept in his particular case) in writing, and in such form as the Committee may from time to time decide. The Committee must pay the Deferred Member a Pension on the terms calculated in accordance with Rule 46.6, but, subject to Rule 45.3 reduced by an appropriate factor reflecting its early payment before the Deferred Member's Normal Pension Age. The Committee must decide the reduction factor that is applied after obtaining the advice of the Actuary.
- 47. Pension in payment increases**
- 47.1 The Committee must increase a pension in payment under the Scheme on 1st January in each year for Pension (excluding Terminal Grant) attributable to Pensionable Service completed on or after the Transition Date by the relevant CARE Revaluation applicable to that CARE Pensioner Member.

- 47.2 At the direction of the Principal Employer, the Committee may increase a pension in payment under the Scheme by a greater amount than is provided under Rule 47.1, provided the relevant Employer agrees to pay Special Employer Contributions sufficient to meet the cost of funding such additional increase as determined by the Actuary.

48. Commutation options – CARE Member

- 48.1 Before a CARE Member starts drawing a Pension, he may commute part of his Pension (excluding Terminal Grant) in any amount up to the maximum of 30% of the value of that part of his Pension then being taken and ascertained as at that date under the CARE Rules, by giving notice in writing to the Committee specifying the amount of the lump sum he wishes to draw. The Member may commute his Pension (excluding Terminal Grant) on a basis of surrendering £1 of Pension (other than Terminal Grant) for £12 lump sum, and calculated in accordance with the following formula:

$A\% \times [(20 \times B) + C]$ where

- ‘A’ is the percentage opted for by the Member up to a maximum of 30%
‘B’ is the annual Pension entitlement (excluding Terminal Grant), and
‘C’ is (in the case of a CARE New Member only) the amount of Terminal Grant

- 48.2 In respect of a CARE New Member (and for the avoidance of doubt):
- (a) the lump sum calculated and payable in accordance with the formula in Rule 48.1 is inclusive of any Terminal Grant;
 - (b) that having calculated the lump sum under the above formula the amount of the Terminal Grant shall be deducted and only the balance divided by 12 in order to ascertain the amount of the pension surrendered; and
 - (c) that where the amount of the lump sum ascertained under the formula is less than the amount of the Terminal Grant payable, the option in Rule 48.1 cannot be exercised.
- 48.3 A CARE Transition Member wishing to commute part of his Pension (excluding Terminal Grant) under this Rule must at the same time and in the same percentage also exercise his right to commute any Pension (excluding Terminal Grant) payable under the Final Salary Scheme pursuant to Rule 74.
- 48.4 Rule 44 shall apply in respect of the DC Account.
- 48.5 The Committee may commute on grounds of Exceptional Serious Ill Health Circumstances the entirety of a Member's benefits before they come into

payment on a basis determined by the Committee after obtaining the advice of the Actuary, provided that:

- (a) the Committee has received evidence from a registered medical practitioner that the Member is expected to live for less than one year;
- (b) the Member must have completed not less than 2 years of Pensionable Service;
- (c) the Member is assumed to have retired on the grounds of Total Incapacity and the benefits are commuted to the maximum sum calculated under Rule 48.1 to which is added a sum equal to 5 times his residual Pension remaining (after commutation and excluding Terminal Grant);
- (d) the Member has consented to the commutation unless he is unable to give his consent because of his ill-health; and
- (e) any contingent benefits due to a Spouse, Qualifying Partner or Qualifying Child of the Member on his death must be separately secured by the Committee.

49. Members with Part-time Service – Assumption in calculating benefit.

For the purposes of calculating benefits under Rule 52 of the CARE Rules for an Active Member in Part-time Service who retires early on account of Total Incapacity, or under Rule 54 of the CARE Rules for an Active Member in Part-time Service who dies in Service, the Committee must assume the Active Member's Part-time Hours on the date he leaves Pensionable Service or dies would have remained the same until he reached Normal Pension Age.

50. Normal retirement for CARE Active Members

50.1 The Committee must pay a CARE Active Member who leaves Pensionable Service on reaching Normal Pension Age, having completed not less than 2 years of Pensionable Service, a Pension calculated in accordance with Rule 50.2.

50.2 Subject to Rule 50.1, a Pension (excluding Terminal Grant) payable to a CARE Active Member must comprise:

- (a) a pension calculated for each Scheme Year while the Active Member is in Pensionable Service in accordance with the formula:

$$AR \times PS$$

In which AR is the relevant accrual rate set out in (b) below, PS is the Pensionable Salary earned during that year of calculation and then

revalued in accordance with the CARE Revaluation appropriate for that Member.

- (b) the accrual rates are:
 - (i) for a CARE New Member, one-eightieth,
 - (ii) and for a CARE Transition Member, one fifty sixth.
- (c) Revaluation is in accordance with the CARE Revaluation applicable to a CARE Active Member whilst the CARE Active Member is in Pensionable Service.

50.3 The Pension shall also include any benefit deriving from a transfer into the Scheme in accordance with Rule 34. The Committee may decide the amount of that benefit after obtaining the advice of the Actuary.

50.4 The Committee shall also pay any Pension the CARE Active Member accrued while in Pensionable Service under the Final Salary Scheme and calculated in accordance with the Final Salary Rules.

50.5 A Pension (excluding Terminal Grant) payable under this Rule:

- (a) is payable from the CARE Active Member's Normal Pension Age; and
- (b) is payable for the rest of the CARE Active Member's life.

50.6 In addition there is payable to a CARE New Member a Terminal Grant calculated at three times the CARE New Member's Pension (excluding Terminal Grant) payable at the CARE New Member's Normal Pension Age.

51. Partial retirement for CARE Active Members

51.1 A Partial Retirement Member, having completed not less than 2 years of Pensionable Service, may draw a Pension in part before leaving Pensionable Service provided:

- (a) he has reached Normal Minimum Pension Age but has not attained age 75; and
- (b) the terms on which he is in Service have changed such that his Salary is reduced by at least 20%.

A Partial Retirement Member may not exercise this option on more than two occasions.

- 51.2 A Partial Retirement Member may exercise the option in Rule 51.1 by giving the Committee 3 months' notice (or such shorter period of written notice as the Committee may accept in his particular case). The notice must inform the Committee:
- (a) the proportion of his Pension, up to a maximum of 75%, that he wishes to draw; and
 - (b) the date from which he wishes his Pension to be paid (Payment Date) and which must be the date on which his Salary is to be reduced.
- 51.3 A Pension (excluding Terminal Grant) payable under this Rule must be payable for the rest of a Partial Retirement Member's life with effect from the Payment Date. The Committee must calculate the Pension on the basis applying under Rule 50.2 but adjusted according to the proportion that the Partial Retirement Member receives his Pension and Rule 48 applies.
- 51.4 If a Partial Retirement Member has elected to be paid part of his Pension:
- (a) the Committee must calculate his Pension as though:
 - (i) he were leaving Pensionable Service on the day before the Payment Date; and
 - (ii) he had accrued only a proportion of the Pensionable Service he has in fact accrued. The proportion used (Partial Pensionable Service) must reflect the proportion of his Pension that he wishes to draw;
 - (b) if he has not reached Normal Pension Age, the Committee must reduce the part of his Pension coming into payment to reflect its early payment in accordance with Rule 52.3;
 - (c) the Partial Retirement Member continues in Pensionable Service until the date he leaves Service. If he has not reached Normal Pension Age when he draws his residual Pension (excluding Terminal Grant), the Committee must reduce his residual Pension for early payment in accordance with Rule 52.3.
- 51.5 A Partial Retirement Member who decides to draw part of his Pension in accordance with Rule 51.1 may also exercise a commutation option under Rule 48 subject to compliance with the Rules. On subsequently drawing any residual Pension (whether relating to the excess over the Partial Retirement Member's Partial Pensionable Service or any Pensionable Service completed after the Payment Date), the Partial Retirement Member may exercise a further commutation option under Rule 48, to the extent that it does not result in a breach of the Rules.

- 51.6 A Partial Retirement Member who has exercised an option under Rule 51.1 counts as both an Active Member and a Pensioner Member under these Rules. But if a Partial Retirement Member dies before starting to draw his residual Pension (excluding Terminal Grant), the death benefits payable for a Partial Retirement Member must be calculated in accordance with Rule 54, (death in Service, applied to the residual Salary) and Rule 57 (death in retirement), and the lump sum payable is the lesser of the aggregate of both those sums or 3 times the amount of the Member's Salary prior to exercising the option under Rule 51.

52. Early retirement for CARE Active Members

- 52.1 A CARE Active Member, having completed not less than 2 years of Pensionable Service, is entitled to draw a Pension on leaving Pensionable Service before reaching Normal Pension Age, upon giving the Committee not less than three months' notice (or such shorter period as the Committee may accept in his particular case), in the following situations:
- (a) if he has attained Normal Minimum Pension Age;
 - (b) if he suffers from Partial Incapacity, provided the Ill-health Condition is met; or
 - (c) if he suffers from Total Incapacity, provided the Ill-health Condition is met.
- 52.2 If a CARE Active Member wishes to draw a Pension early in any of the situations referred to in Rule 52.1, he must apply to the Committee in writing in such form as the Committee may decide from time to time.
- 52.3 The Committee must pay a CARE Active Member who retires early under Rule 52.1(a) a Pension, calculated in accordance with Rule 50, which, subject to Rule 45.3, will be reduced by an appropriate factor reflecting its early payment before the CARE Active Member's Normal Pension Age. The Committee shall decide the reduction factor that is applied after obtaining the advice of the Actuary.
- 52.4 The Committee must pay a CARE Active Member who retires early under Rule 52.1(b) a Pension, calculated in accordance with Rule 50 which is not reduced for early payment.
- 52.5 The Committee must pay a CARE Active Member who retires early under Rule 52.1(c) a Pension, calculated in accordance with Rule 50, which is not reduced for early payment, and his Pensionable Service is to be augmented by the Additional Pensionable Service. The Pension for the period of Additional Pensionable Service is calculated under Rule 50 but based on Pensionable

Salary over the 12 month period ending on the date of his retirement provided further that if Rule 43 applies the Additional Pensionable Service shall be half rate or nil as the case may be.

- 52.6 If the CARE Active Member's years of Pensionable Service is less than 2 years, that Member shall be entitled, if he is retired under Rule 52.1(b) or Rule 52.1(c), to a payment:

(a) equal to 1/12 of Pensionable Salary over a 12 month period ending on the date of the Member's retirement, and if a CARE New Member a Terminal Grant;

or

(b) a Contribution Refund together with interest at a rate determined by the Committee from time to time,

whichever is the greater.

- 52.7 The Committee may from time to time review whether a Member remains entitled to a Pension on grounds of Partial Incapacity or Total Incapacity. In conducting a review, the Committee may ask the Member to undergo medical examinations and provide such information as it may require. If the Committee decides after a review that a Member no longer suffers from Partial Incapacity or Total Incapacity as the case may be, it may reduce, suspend or terminate the Pension on giving the Member one month's notice in writing.

- 52.8 A CARE Active Member (other than those referred to in Rule 52.9) who is within 5 years of his Normal Pension Age who, for reasons other than Partial Incapacity or Total Incapacity, is unable to carry out his existing duties may apply to his Employer for assessment under EIERP. If the Employer is unable to provide the Member with suitable alternative employment following completion of the EIERP the Employer may (with the prior consent of the Committee) retire the Member and Rule 52.4 shall apply.

- 52.9 A CARE Active Member who is a member of the Guernsey Police Force or the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service and who is at least 50 years of age but has not reached Normal Pension Age for a Member who remains in Pensionable Service to age 55, may apply for assessment under EIERP. The relevant Chief Officer of the service may (having obtained the prior consent of the Committee) determine that for reasons other than Partial Incapacity or Total Incapacity, and despite all reasonable support that has or could be made available to that Member, the Member is unable to regain the necessary levels of fitness to be deployed on operational duties and cannot be assigned to an alternative police officer or fire fighter role (as the case may be). In such circumstances if the Member is employed in Pensionable Service in a new non police officer or fire fighter role the following provisions and options apply:

- (a) The Member will receive pay, benefits and the pension arrangements that relate to the new appointment;
- (b) in respect of benefits accrued to the date of the new appointment a Member remaining in Pensionable Service may:
 - (i) receive his Pension from his Normal Pension Age determined as if he had remained in Pensionable Service until age 55;
 - (ii) or receive a Pension from an earlier date actuarially reduced in accordance with Rule 52.3.

For the avoidance of doubt any benefits in the Final Salary Scheme will be calculated in accordance with the Final Salary Rules.

- (c) In the event that the Employer is unable to provide the Member with suitable alternative employment following completion of the EIERP the Member will be retired and Rule 52.4 shall apply.

52.10 For a CARE Active Member who is a member of the Guernsey Police Force or the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service and who is at least 55 years of age, the Employer (with the prior consent of the Committee) shall be entitled to determine that having regard to the interests of the economical, effective and efficient management of that service and the costs likely to be incurred that Active Member should be retired and in which event that Active Member shall be awarded a Pension as at the retirement date in accordance with Rule 52.4.

53. Late retirement for CARE Active Members

53.1 With the consent of his Employer, a CARE Active Member may remain in Service after reaching Normal Pension Age.

53.2 A CARE Active Member who remains in Service under Rule 53.1 continues in Pensionable Service until the earlier of:

- (a) the date on which he leaves Service; or
- (b) the date on which he attains the age of 75.

53.3 A Member who has extended his Service under Rule 53.1 shall be paid a Pension calculated under Rule 50.2 and is payable from the date on which a CARE Active Member leaves Service, or the date on which he attains age 75 whichever is earlier.

54. Death benefits: CARE Active Members who die in Pensionable Service before reaching Normal Pension Age

54.1 If a CARE Active Member dies in Pensionable Service before reaching Normal Pension Age, the following benefits set out in this Rule 54 are payable.

54.2 In this Rule 54 (including the Tables):

- (a) **‘Death in Service Lump Sum’** means a sum equal to three times the CARE Active Member’s Salary over the 12 month period ending on the date of his death;
- (b) **‘Pensionable Salary Entitlement’** means one quarter of the CARE Active Member’s Salary over the 12 month period ending on the date of the death of the Member and is payable in three equal monthly instalments in arrears during the three months following the date of his death;
- (c) **‘Pension’** for the purpose of this Rule excludes Terminal Grant;
- (d) **‘AVC Member Benefit’** means benefits payable as a result of the payment of AVC Member Contribution;
- (e) **‘AVC Member Spouse Benefit’** means benefits payable as a result of the payment of AVC Member Spouse Contribution.
- (f) **‘AVC Member Contribution’** means AVCs paid by the Member under Rule 45.2 for Member added pension only and not for Spouse or Qualifying Partner added pension.
- (g) **‘AVC Member Spouse Contribution’** means AVCs paid by the Member under Rule 45.2 for Member and Spouse or Qualifying Partner added pension
- (h) **‘AVC/ERR’** means AVCs paid by the Member to remove part or all of the early retirement reduction referred to in Rule 45.3.
- (i) **‘Spouse Pension’** means a pension calculated for each Scheme Year while the Member is in Pensionable Service in accordance with the formula:

AR x PS in which:

- (i) AR is the accrual rate of one one hundred and sixtieth (1/160);
- (ii) PS is the Pensionable Salary earned during that year of calculation; and

- (iii) revalued in accordance with the CARE Revaluation appropriate for that Member;
- (iv) augmented by Additional Pensionable Service, and the calculation of the Pension for the period of Additional Pensionable Service is calculated in accordance with the formula in this paragraph (i) but based on Pensionable Salary over the 12 month period ending on the date of the Member's death provided that if Rule 43 applies the Additional Pensionable Service shall be half rate or nil as the case may be; and
- (v) revaluation is in accordance with the CARE Revaluation applicable to the CARE Active Member whilst that CARE Active Member was in Pensionable Service.
- (j) Where there is an additional Pension payable for a second or more Qualifying Child, this Pension is the total amount and is not payable for any further Qualifying Child.
- (k) Payments for a Qualifying Child are payable only for as long as they remain a Qualifying Child.

54.3 The Committee shall pay the benefits as determined by this Rule 54 (subject to Rule 22):

- (a) to his Spouse or (subject to the provision of Evidence of Financial Dependence) a Qualifying Partner; or
- (b) if the Member is not survived by a Spouse or Qualifying Partner but is survived by a Qualifying Child, to such person as the Committee may in its discretion determine for the benefit of that Qualifying Child (or children) (if more than one in equal shares); or
- (c) if the Member is survived neither by a Spouse, Qualifying Partner nor by a Qualifying Child, to his legal personal representative; and
- (d) provided that if and for so long as the Member is survived by a Qualifying Child who is not in the custody of the Member's Spouse or Qualifying Partner, any pension payable in respect of that Qualifying Child shall be paid to such person as the Committee may in its discretion determine for the Qualifying Child's benefit.

54.4 Pension on the death of a CARE Active Member in Pensionable Service but with less than two years' Pensionable Service:

Member survived by Spouse or Qualifying Partner (with or without Qualifying Child)	Member not survived by Spouse or Qualifying Partner but survived by Qualifying Child	Member not survived by Spouse or Qualifying Partner or Qualifying child
<ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • AVC Member Contribution; • AVC Member Spouse Contribution; • AVC/ERR; and • the DC Account 	<ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • AVC Member Contribution; • AVC Member Spouse Contribution; • AVC/ERR; and • the DC Account 	<ul style="list-style-type: none"> • Death in Service Lump Sum; • AVC Member Contribution; • AVC Member Spouse Contribution; • AVC/ERR; and • the DC Account

54.5 Pension on the death of a CARE Active Member in Pensionable Service with two or more years' Pensionable Service:

1. Member survived by Spouse or Qualifying Partner, with no Qualifying Child.

- Death in Service Lump Sum;
- Pensionable Salary Entitlement;
- AVC Member Contribution;
- AVC Member Spouse Benefit;
- AVC/ERR;
- the DC Account; and
- Spouse Pension

2. Member survived by Spouse or Qualifying Partner, with Qualifying Child.

- Death in Service Lump Sum;
- Pensionable Salary Entitlement;
- AVC Member Contribution;
- AVC Member Spouse Benefit;
- AVC/ERR;
- the DC Account;
- Spouse Pension; and
- an additional pension for first Qualifying Child, equal to one half of the Spouse Pension;
- an additional pension for second Qualifying Child (or children), equal to one half of the Spouse Pension

3. Member survived by Qualifying Child but not a Spouse or Qualifying Partner

- Death in Service Lump Sum;
- Pensionable Salary Entitlement;
- AVC Member Contribution and AVC Member Spouse Contribution;
- AVC/ERR;
- the DC Account;
- a pension for first Qualifying Child, equal to two thirds of the Spouse Pension;
- a pension for second Qualifying Child (or children) equal to two thirds of the Spouse Pension

4. Member not survived by Spouse or Qualifying Partner or Qualifying Child.

- Death in Service Lump Sum;
- AVC Member Contribution and AVC Member Spouse Contribution;
- AVC/ERR;
- the DC Account

55 Death benefits: CARE Active Members who die in Pensionable Service on or after reaching Normal Pension Age

If a CARE Active Member dies in Pensionable Service on or after reaching Normal Pension Age and before starting to receive a pension, the relevant benefits set out in Rule 54 are payable except that in the calculation of the Pension any Additional Pensionable Service is excluded and AVC/ERR is not refundable.

56. Death benefits: CARE Deferred Members

56.1 If a CARE Deferred Member dies, the benefits set out in this Rule are payable. In this Rule 'Pension' excludes Terminal Grant.

56.2 The Spouse Pension is calculated as set out in Rule 54 but amended as follows:

- in the calculation of the Pension any Additional Pensionable Service is excluded; and
- the CARE Revaluation applying from the date that the CARE Deferred Member left Pensionable Service until the date of his death is the revaluation appropriate for a CARE Deferred Member.

56.3 The Committee must pay the following amounts:

1. Member survived by Spouse or Qualifying Partner, with no Qualifying Child.

- AVC Member Contribution;
- AVC Member Spouse Benefit;
- AVC/ERR;

- the DC Account;
- Spouse Pension

2. Member survived by Spouse or Qualifying Partner, with Qualifying Child.

- AVC Member Contribution;
- AVC Member Spouse Benefit;
- AVC/ERR;
- the DC Account;
- Spouse Pension;
- an additional pension for first Qualifying Child, equal to one half of the Spouse Pension;
- an additional pension for second Qualifying Child (or children), equal to one half of the Spouse Pension

3. Member survived by Qualifying Child but not a Spouse or Qualifying Partner

- AVC Member Contribution and AVC Member Spouse Contribution;
- AVC/ERR;
- the DC Account;
- a pension for first Qualifying Child, equal to two thirds of the Spouse Pension;
- a pension for second Qualifying Child (or children), equal to two thirds of the Spouse Pension

4. Member not survived by Spouse or Qualifying Partner or Qualifying Child.

- Member Contributions made by the Member during Pensionable Service and (which for the avoidance of doubt) includes:
- AVC Member Contribution;
- AVC Member Spouse Contribution;
- AVC/ERR;
- the DC Account relating to the Member's AVCs

57. Death benefits: CARE Pensioner Members

57.1 If a CARE Pensioner Member dies after starting to receive a pension under the Scheme, the benefits set out in this Rule are payable. In this Rule 'Pension' excludes Terminal Grant.

57.2 The Spouse Pension is calculated as set out in Rule 54 but amended as follows:

- (a) in the calculation of the Pension any Additional Pensionable Service is excluded; and

- (b) the CARE Revaluation for a CARE Pensioner Member applying from the date that the CARE Pensioner Member started to receive his Pension until the date of his death is the revaluation appropriate for a CARE Pensioner Member.

57.3 If a CARE Deferred Member retires and then dies, the benefits are increased in accordance with the CARE Revaluation for a Deferred Member up to the date of retirement and then the CARE Revaluation for a CARE Pensioner Member from the date of retirement until the date of his death.

57.4 The Committee must pay the following amounts:

1. Member dies within five years after starting to receive a pension under the Scheme
<ul style="list-style-type: none"> A lump sum equal to the further instalments of pension (excluding annual increases) that would have been paid to the CARE Pensioner Member if he had not died, in the balance of the five years commencing on his first payment date of his pension, subject to a minimum payment of three months
2. Member dies five years or more after starting to receive a Pension under the Scheme and is survived by Spouse or Qualifying Partner or Qualifying Child
<ul style="list-style-type: none"> Payment of three further monthly instalments of pension (excluding annual increases) that would have been paid to the CARE Pensioner Member if he had not died
3. Member survived by Spouse or Qualifying Partner with no Qualifying Child.
<ul style="list-style-type: none"> Spouse Pension AVC Member Spouse Benefit;
4. Member survived by Spouse or Qualifying Partner with a Qualifying Child.
<ul style="list-style-type: none"> Spouse Pension; AVC Member Spouse Benefit; an additional pension for first Qualifying Child, equal to one half of the Spouse Pension; an additional pension for second Qualifying Child (or children), equal to one half of the Spouse Pension

5. Member survived by Qualifying Child but not a Spouse or Qualifying Partner
<ul style="list-style-type: none"> • a pension for first Qualifying Child, equal to two thirds of the Spouse Pension; • a pension for second Qualifying Child (or children), equal to two thirds of the Spouse Pension

Part 3 Final Salary Rules

Note: These Rules are to be read in accordance with and consistently with the Original Documents except as expressly provided in this Part. In the event of a conflict between the Original Documents and the provisions contained in this Part 3, this Part 3 shall prevail. Except to the extent that they are amended by this Part 3, these Rules incorporate the provisions of the Original Documents in force as at 29th February 2016 in relation to the Final Salary Rules (only).

58. Application

These Rules apply to Final Salary Protected Members for all of their Pensionable Service. They apply to CARE Transition Members for their Pensionable Service up to (but not including) the Transition Date.

59. Interpretation

The definitions in the Original Documents shall apply to these Final Salary Rules (unless otherwise stated in this Part 3).

60 Active Members subject to Transitional Provisions

Final Salary Protected Members and CARE Transition Members on the Transition Date are subject to these transitional provisions.

61. Closure of the Final Salary Scheme

The Final Salary Scheme is closed with effect from 1st May 2015. Since that date, Eligible Employees are no longer entitled to be admitted to the Final Salary Scheme but may only join as CARE Active Members.

62. No further accrual to the Final Salary Scheme except for Final Salary Protected Members

62.1 Final Salary Protected Members automatically remain in the Final Salary Scheme for further accrual if they have not elected within one month after the Transition Date to join the CARE Scheme, and, if they do so elect to join the CARE Scheme, shall be CARE Transition Members.

62.2 With effect from the Transition Date, except for Final Salary Protected Members, the Final Salary Scheme is closed to further accrual by Active Members. CARE Transition Members benefits in respect of Pensionable Service up to (but not including) the Transition Date are calculated in accordance with the Final Salary Rules.

62.3 CARE Transition Members who remain in Pensionable Service accrue any further benefits as CARE Active Members from the Transition Date.

63. Members who left Pensionable Service or died before the Transition Date

The Committee must calculate benefits for a Member who stopped being a Member of the Final Salary Scheme or who died before the Transition Date in accordance with the Final Salary Rules in force on the date they left Pensionable Service, retired or die (whichever is the earlier) except as stated in this Part 3.

64. Changes in indexation, commutation options, HM Greffier

Notwithstanding Rule 63:

64.1 for a Final Salary Pensioner and Final Salary Deferred Member, future pension and deferred pension increases payable under the Final Salary Rules shall, with effect from the Transition Date, be assessed by reference to the Guernsey Index of Retail Prices excluding mortgage payments (RPIX) and not the Guernsey Index of Retail Prices All Items (RPI); and

64.2 for a Final Salary Deferred Member the commutation options shall be those set out in Rule 74; and

64.3 with effect from 1st August 2011, Rule 6 and Schedule 1 of the Original Documents shall not apply to Her Majesty's Greffier, and Rule 7 of the Original Documents shall be read so as to include a new subparagraph

(s) - HM Greffier

in the list of persons eligible to be a Member of the Final Salary Scheme.

65. Final Salary Protected Members: Benefits under the Final Salary Scheme

65.1 Final Salary Protected Members shall continue to be governed by the Final Salary Rules as amended by Part 3 of these Rules.

65.2 A Final Salary Protected Member shall not be able to receive their Pension or other benefits under the Final Salary Rules whilst they remain an Active Member of the Scheme but this does not prevent the Rules of the Scheme for flexible retirement from applying to that Member.

66. CARE Transition Members: Benefits under the Final Salary Scheme

66.1 If a CARE Transition Member dies,

- (a) in Service; or
- (b) after they have deferred their pension or other benefits; or
- (c) after retirement,

then, (in addition to any benefits payable under the CARE Scheme), a pension to a Spouse, or Qualifying Partner or Qualifying Children under the Final Salary Scheme shall be based on the accrued benefit under the Final Salary Rules only. This is without prejudice to any additional Pension or benefits payable from the CARE Scheme following the Transition Date.

By way of example if a CARE Transition Member has accrued ten years of Pensionable Service before the Transition Date under the Final Salary Rules and dies in Service 5 years later when their Final Pensionable Salary has increased to £30,000, there is payable to the Spouse from the Final Salary Scheme a pension of:

$$10/160 \times £30,000 = £1,875 \text{ pa.}$$

66.2 For the avoidance of doubt:

- (a) A pension to a Spouse, Qualifying Partner or Qualifying Child from the Final Salary Scheme will be based on the Pensionable Service in the Final Salary Scheme qualifying for the benefit;
- (b) any additional death in Service benefits (including any benefit based on Pensionable Service after the Transition Date) and the Death in Service Lump Sum will be paid under the CARE Rules.

66.3 A Pension or other benefit payable to a CARE Transition Member by reason of ill health will follow the same principles set out in Rule 52, and:

- (a) the benefit shall be based on accrued Pensionable Service under the Final Salary Scheme, whatever the level of incapacity;
- (b) any additional ill health benefits (including any benefit based on Pensionable Service after the Transition Date) will be paid under the CARE Rules.

66.4 CARE Transition Members' accrued benefits up to the date immediately prior to Transition Date and payable under the Final Salary Rules will be linked to

Final Pensionable Salary at the date they leave Service, leave Pensionable Service, retire or die (whichever is the earlier).

- 66.5 A CARE Transition Member shall not be able to receive their Pension or other benefits under the Final Salary Rules whilst they remain an Active Member of the Scheme but this does not prevent the Rules of the Scheme for flexible retirement from applying to that Member.

67. Final Salary Scheme Revaluation Provisions

- 67.1 The Committee are responsible under Rule 10 for making recommendations to the Principal Employer as to increases in pensions and other benefits, and, in respect of the Final Salary Scheme, shall do so annually.
- 67.2 The Committee in exercising its powers under Rule 67.1 in relation to the Final Salary Scheme shall take into account as a relevant factor any change in the purchasing power of the pound sterling since it last reported, as reflected in the RPIX.
- 67.3 If the Committee resolves that retirement pensions in payment, and preserved pensions and other benefits, under these Rules should be increased with effect from 1st January of any calendar year by no more and no less than the relevant inflation factor, this Rule shall be deemed for all purposes to have been complied with as respects that calendar year and any resolution of the Committee shall have effect as if it were a resolution of the States passed after consideration of a report made in accordance with Rule 67.1.
- 67.4 For the purposes of Rule 67.3 'the relevant inflation factor' is the percentage increase in the RPIX for the 12 months ending on 30th June in the preceding year, or, in the case of benefits awarded during that year, a proportion of that percentage increase calculated as 1/365 for each day of entitlement.

68. AVCs Final Salary Scheme – Additional Benefits

- 68.1 The provisions of Rule 44 apply to Final Salary Protected Members.
- 68.2 Subject to the terms and condition of the Final Salary Rules, a Final Salary Protected Member may, with the consent of the Committee, and upon such terms as the Committee may approve, and subject to the receipt of a medical report satisfactory to the Committee, purchase additional benefits as the Committee may approve, in accordance with the provisions of Rule 68.3.
- 68.3 Additional annual pension in multiples of £300 may be purchased by the Final Salary Protected Member by way of lump sum or periodical contributions (ascertained and certified as payable by the Actuary), up to a maximum total additional pension of £6,000 per annum. Such additional pension payable shall be increased from the date of purchase in accordance with Rule 67. The

Committee shall be entitled to review and amend from time to time the £300 purchase multiple and the £6000 maximum total additional pension able to be purchased by a Member.

69. Final Salary Protected Members - Contributions

69.1 Rule 42.2, 42.3 and 42.8 and Rule 43 shall also apply to Final Salary Protected Members.

69.2 A Final Salary Protected Member shall, at such intervals as the Committee may from time to time determine, contribute to the Scheme:

- (a) an amount equivalent to 7% of their Salary, except
- (b) for females who were members of the Scheme on 31st July 1988 and who have exercised an option in accordance with The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 1988 to continue to contribute to the Scheme at a lower rate, who shall contribute to the Scheme an amount equivalent to 6% of their Salary;

and provided that a member of the Scheme who has attained the Final Salary Compulsory Retirement Age shall not contribute without the permission of the Committee.

69.3 In the case of a Final Salary Protected Member who is a member of the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service:

- (a) who joined the Scheme at any time after 31st October 1991 and before the 1st January 2008, and
 - (i) who has the rank of Station Manager or below the contribution rate shall be 11.5% and not 7%, and
 - (ii) in the case of a Final Salary Protected Member who has a rank above Station Manager, the contribution rate shall be 10% not 7%;
- (b) who joined the Scheme after 1st January 2008, irrespective of rank, the rate shall be 9% not 7%.

69.4 In the case of a Final Salary Protected Member who is a member of the Guernsey Police Force:

- (a) who joined the Scheme at any time after 31st October 1991 and before the 1st January 2008, and

- (i) who has the rank of Chief Inspector or below the contribution rate shall be 11.5% and not 7%; and
 - (ii) in the case of a Final Salary Protected Member who is above the rank of Chief Inspector, the contribution rate shall be 10% not 7%;
 - (b) who joined the Scheme after 1st January 2008, irrespective of rank, the rate shall be 10% not 7%.
- 69.5 Nothing in Rule 69.3 or Rule 69.4 shall prevent a Final Salary Protected Member who was a member of the Scheme at any time on or before 31st October 1991 from electing to make the higher contribution of 11.5% or 10% (as the case may be)
- 69.6 If, in consequence of ill health or injury, a Final Salary Protected Member suffers a reduction in Salary he shall contribute to the Scheme in accordance with Rule 69.2, Rule 69.3 or Rule 69.4 on his reduced Salary.
- 69.7 If, in consequence of ill health or injury, the Salary of a Final Salary Protected Member is discontinued for any period then during that period he shall not be required to contribute to the Scheme.
- 69.8 If, in consequence of his incapacity to continue to discharge efficiently the duties of his office, a Final Salary Protected Member is transferred to another position at a reduced Salary, or otherwise suffers a reduction of Salary, or if a Final Salary Protected Member is, otherwise than owing to ill health or injury, on leave of absence at a reduced Salary or is for any reason on leave of absence without Salary, he may, with the consent of the Committee, continue to contribute to the Scheme in the same amount as if his Salary had not been reduced or discontinued.
- 69.9 For the purposes of calculating any sum which a Member of the Final Salary Scheme is entitled to receive as compound interest on his contributions, only the balances standing to the credit of the account of the Member at the thirty-first day of December in any year shall be taken into account in calculating compound interest in respect of the following year (or part of that year if the Member leaves Service in that year) and contributions paid in any year or part of a year shall not attract interest in the year in which they are paid.

70. CARE Active Members Normal Pension Age

For the purpose of assessing benefits payable from the Final Salary Scheme, the Normal Pension Age will be used except there will be no reduction of the Pension or benefits payable under the Final Salary Scheme on the grounds that a CARE Transition Member is retiring on or after the Final Salary Normal Pension Age but before their

Normal Pension Age. CARE Transition Members cannot access their Pension and other benefits while they remain in Pensionable Service.

71. Benefits for early leavers of the Final Salary Scheme

- 71.1 A Final Salary Protected Member or CARE Transition Member who, before becoming entitled to a Pension or other benefit in the Final Salary Scheme, leaves Service shall be entitled to receive a Contribution Refund equal to the aggregate of his contributions to the Scheme together with compound interest on that sum at the rate of 3% pa with yearly rests at the thirty-first day of December in each year or he may request the Committee to make a transfer under Rule 33.
- 71.2 A CARE Transition Member who takes a Contribution Refund or transfer under Rule 71.1 must also take the same option for a Contribution Refund or transfer under Rule 46.3 of the CARE Scheme at the same time.
- 71.3 A Final Salary Protected Member or CARE Transition Member shall not be entitled to a Contribution Refund under Rule 71.1 if the Committee pays a transfer value in respect of that Member.

72 No re-entry into the Final Salary Scheme

If a Final Salary Protected Member leaves Pensionable Service and subsequently re-enters Pensionable Service as an Eligible Employee he shall not be entitled to re-enter the Final Salary Scheme but shall be a CARE New Member under the CARE Scheme.

73. Pensionable Service

- 73.1 The Pensionable Service of a Final Salary Protected Member and CARE Transition Member (in relation to their benefits under the Final Salary Rules) for the purposes of calculating a Pension or other benefit under these Rules shall be:
- (a) any period of Service during which the Final Salary Protected Member or CARE Transition Member is a member of the Final Salary Scheme, but any period while the Final Salary Protected Member is in employment with an Employer after the Final Salary Compulsory Retirement Age is not counted unless the Committee otherwise agrees;
 - (b) any period in respect of which a transfer value has been paid to the Committee in accordance with Rule 34 and approved by the Committee as Pensionable Service;
 - (c) any period during which a Final Salary Protected Member is, with the approval of the Committee, on Paid Family Leave or Unpaid Family

Leave and the Final Salary Protected Member pays contributions under Rule 69;

- (d) in the case of Existing Members of the Teachers' Scheme who elected to transfer to the Scheme pursuant to the Teachers' Regulations 2005, any period of Pensionable Service which counted in respect of that Existing Member under the Teachers' Scheme as at the date of the transfer; and
- (e) any other period which the Committee agreed was Pensionable Service at the time of the Final Salary Protected Member's entry into the Final Salary Scheme.

73.2 The length of any period of Pensionable Service of a Final Salary Protected Member or CARE Transition Member in Part-time Service is calculated for the Final Salary Rules in accordance with the following formula:

$$\frac{HP}{FTP} \times LP$$

Where

'HP' is the number of hours per calendar year which the Employer was entitled at the time to require the Member to devote to his employment;

'FTP' is the number of hours per calendar year which the Employer was entitled at the time to require a full-time Employee to devote to his employment; and

'LP' is the actual length (in years and any fraction of a year) of the period concerned.

73.3 In the case of a Teacher who is a Final Salary Protected Member or CARE Transition Member and whose contract does not stipulate the number of hours per calendar year which the Employer was entitled at the time to require a full time Employee to devote to his employment (FTP) or the number of hours per calendar year which the Employer was entitled at the time to require that Member to devote to his employment (HP) the length of any period of Pensionable Service of a Final Salary Protected Member or CARE Transition Member in Part-time Service is calculated in accordance with the following formula:

$$Z \times LP$$

Where

‘Z’ is the percentage of the notional teaching hours to be worked by that Member at the time as is set out in that Member’s contract of employment, and

‘LP’ is the actual length (in years and any fraction of a year) of the period concerned.

- 73.4 Pensionable Service calculated in accordance with the Final Salary Rules shall not exceed in aggregate forty-five years. In the event that any Final Salary Protected Member, as at 1st January 2008, has, except for the application of any Rule having effect at any time on or before 31st December 2007, Pensionable Service of more than 40 years at the date of his 60th birthday, then, for the purpose of the calculation of Pensionable Service, including that acquired on or after 1st January 2008, that Member shall be treated as having 40 years’ Pensionable Service as at 1st January 2008 or at the date of his 60th birthday if earlier.

74. Commutation Options – Final Salary Protected Members or CARE Transition Members

- 74.1 Before a Final Salary Protected Member or a CARE Transition Member (in respect of their benefits under the Final Salary Scheme) starts drawing a Pension, he may commute part of his Pension (excluding Terminal Grant) in any amount up to the maximum of 30% of the value of that part of his Pension then being taken and ascertained as at that date under the Final Salary Rules, by giving notice in writing to the Committee specifying the amount of the lump sum he wishes to draw. The Member may commute his Pension (excluding Terminal Grant) on a basis of surrendering £1 of Pension (other than Terminal Grant) for £12 lump sum, and calculated in accordance with the following formula:

$$A\% \times [(20 \times B) + C]$$

Where

‘A’ is the percentage opted for by the Member up to a maximum of 30%

‘B’ is the annual Pension entitlement (excluding Terminal Grant), and

‘C’ is (in the case of Final Salary Existing Members only) the amount of the Terminal Grant

A Member wishing to commute part of his Pension (excluding Terminal Grant) under this Rule must at the same time and in the same percentage also exercise his right to commute any Pension (excluding Terminal Grant) payable under the CARE Scheme pursuant to Rule 48.

74.2 In respect of Final Salary Existing Members (and for the avoidance of doubt):

- (a) the lump sum calculated and payable in accordance with this formula is inclusive of Terminal Grant;
- (b) that having calculated the lump sum under the above formula the amount of the Terminal Grant shall be deducted and only the balance divided by 12 in order to ascertain the amount of the pension surrendered; and
- (c) that where the amount of the lump sum ascertained under the formula is less than the amount of the Terminal Grant payable, the option in Rule 74.1 cannot be exercised.

74.3 The Committee may commute on grounds of Exceptional Serious Ill-health Circumstances the entirety of a Member's benefits before they come into payment on a basis determined by the Committee after obtaining the advice of the Actuary, provided that:

- (a) the Committee has received evidence from a registered medical practitioner that the Member is expected to live for less than one year;
- (b) the Member must have completed not less than 2 years of Pensionable Service;
- (c) The Member is assumed to have retired on the grounds of Total Incapacity and the benefits are commuted to the maximum sum calculated under Rule 74.1 to which is added a sum equal to 5 times his residual Pension remaining (after commutation and excluding Terminal Grant).
- (d) the Member has consented to the commutation unless he is unable to give his consent because of his ill-health; and
- (e) any contingent benefits due to a Spouse Qualifying Partner or Qualifying Child of the Member on his death must be separately secured by the Committee.

75. Normal Retirement for Final Salary Scheme Members

75.1 The Committee must pay a Final Salary Protected Member or a CARE Transition Member, who has completed at least two years of Pensionable Service, and who leaves Pensionable Service on reaching Normal Pension Age, a Pension calculated in accordance with the provisions of these Rules.

75.2 Notwithstanding the provisions of Rule 75.1, a Final Salary Protected Member may continue in Pensionable Service after attaining the Final Salary

Compulsory Retirement Age if the Committee, having received the recommendation of the Employer, approves that Member continuing in Pensionable Service, provided that the Committee may only continue that Pensionable Service from year to year and in no circumstances shall the Committee approve that a Member shall continue in Pensionable Service following their 75th birthday.

75.3 For the purposes of Rule 75.1 and 75.2:

- (a) for a Final Salary Existing Member, the Final Salary Normal Pension Age shall be his 60th birthday and the Final Salary Compulsory Retirement Age shall be his 65th birthday;
- (b) for a Final Salary New Member, the Final Salary Normal Pension Age and the Final Salary Compulsory Retirement Age shall in both cases be his 65th birthday.

75.4 The Committee may pay a Final Salary Protected Member or a CARE Transition Member who has attained their Final Salary Normal Pension Age and who leaves Pensionable Service a Pension (excluding Terminal Grant) calculated as follows:

- (a) for a Final Salary Existing Member one eightieth; or
- (b) for a Final Salary New Member one sixtieth,

of their Final Pensionable Salary, for each completed year or part of a year of Pensionable Service.

75.5 The Committee may also pay a Terminal Grant to a Final Salary Existing Member who has attained their Final Salary Normal Pension Age and who leaves Pensionable Service, calculated as follows:

- (a) in the case of a Final Salary Existing Member who entered Pensionable Service on or after 1st October 1972, by multiplying his Final Pensionable Salary by 3/80 for each year of Pensionable Service;
- (b) in the case of a Final Salary Existing Member who entered Pensionable Service before 1st October 1972:
 - (i) by multiplying his Final Pensionable Salary by 3/80ths for each year of Pensionable Service after 1st October 1972,
 - (ii) by multiplying his Final Pensionable Salary by 3/80ths for each year of Pensionable Service for the purposes of the Contingency Funds Rules prior to 1st October 1972,

(iii) by multiplying his Final Pensionable Salary:

(A) in the case of a bachelor, by 2/80ths;

(B) in the case of any other male Member, by 1/80th;

(C) in the case of a female Member, by 1/30th;

for each year of Pensionable Service not being Pensionable Service for the purposes of the Contingency Funds Rules prior to 1st October 1972,

and aggregating the products.

75.6 No Terminal Grant shall be payable to a Final Salary New Member.

76. Pensionable Service and Final Salary Normal Pension Age for Final Salary Existing Members employed by the Guernsey Fire and Rescue Service or Airport Fire and Rescue Service

76.1 The following special provisions of this Rule 76 shall apply to a Final Salary Protected Member or a CARE Transition Member (in relation to the calculation of benefits under the Final Salary Scheme) who is a Final Salary Existing Member and employed by the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service in respect of his period of Pensionable Service with the Guernsey Fire and Rescue Service or Airport Fire and Rescue Service.

76.2 Each year of Pensionable Service of a Final Salary Existing Member employed by either of those services before he attains the age of 55 shall, except for Pensionable Service in excess of 30 years, be counted as one and a third years;

76.3 For a Final Salary Existing Member with the rank of Station Manager or below, the Final Salary Normal Pension Age shall be their 50th birthday and the Final Salary Compulsory Retirement Age shall be their 55th birthday;

76.4 For a Final Salary Existing Member with a rank above the role of Station Manager the Final Salary Normal Pension Age shall be their 55th birthday and the Final Salary Compulsory Retirement Age shall be their 60th birthday;

76.5 The years, or years in the aggregate, of Pensionable Service of a Final Salary Existing Member with a rank above the role of Station Manager may exceed 40 years at his Final Salary Normal Pension Age notwithstanding Rule 73.4.

77. Pensionable Service and Final Salary Normal Pension Age for Final Salary New Members employed by the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service

77.1 The following provisions shall apply to a Final Salary Protected Member or a CARE Transition Member (in relation to the calculation of benefits under the Final Salary Scheme) who is a Final Salary New Member and employed by the Guernsey Fire and Rescue Service or Airport Fire and Rescue Service in respect of his period of Pensionable Service with the Guernsey Fire and Rescue Service or Airport Fire and Rescue Service.

77.2 For a Final Salary New Member the Final Salary Normal Pension Age is their 60th birthday and the Final Salary Compulsory Retirement Age is their 65th birthday;

77.3 A Final Salary New Member who is aged 55 or above may be retired by his Employer with the consent of the Committee if it is considered by the Employer to be in the interests of the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service (as the case may be) and in which case a Pension shall be payable at the date of retirement.

78. Pensionable Service and Final Salary Normal Pension Age for Final Salary Existing Members who are members of the Guernsey Police Force

78.1 The following special provisions of this Rule shall apply to a Final Salary Protected Member or a CARE Transition Member (in relation to the calculation of benefits under the Final Salary Scheme) who is a Final Salary Existing Member and a member of the Guernsey Police Force in respect of the period of his Pensionable Service with the Guernsey Police Force:

(a) for a Final Salary Existing Member below the rank of Inspector, the Final Salary Normal Pension Age shall be his 50th birthday if he has completed 25 years' police service and the Final Salary Compulsory Retirement Age shall be his 55th birthday;

(b) for a Final Salary Existing Member of the rank of Inspector or Chief Inspector the Final Salary Normal Pension Age is his 50th birthday if he has completed 25 years' police service and the Final Salary Compulsory Retirement Age shall be his 60th birthday;

(c) for a Final Salary Existing Member above the rank of Chief Inspector the Final Salary Normal Pension Age is his 55th birthday if he has completed 25 years' police service and the Final Salary Compulsory Retirement Age shall be his 60th birthday.

78.2 Each year of police service of a Final Salary Existing Member, of whatever rank, shall, except for years of police service in excess of 30 years, be counted as one

and one third years of Pensionable Service and each year of service after 30 years shall count as one year of Pensionable Service up to a maximum of 5 years.

78.3 If a Final Salary Existing Member completes 25 years' police service before reaching his 50th birthday he may be granted a Pension except that the Pension shall not be paid until the date on which he reaches his 50th birthday unless the Committee approves an earlier date for payment.

78.4 The years, or years in aggregate, of Pensionable Service of a Member who is above the rank of Chief Inspector may exceed 40 years at his Final Salary Normal Pension Age notwithstanding Rule 73.4.

79. Pensionable Service and Final Salary Normal Pension Age for Final Salary New Members who are members of the Guernsey Police Force

79.1 The following special provisions of this Rule shall apply to a Final Salary New Member who is a member of the Guernsey Police Force in respect of the period of his Pensionable Service with the Guernsey Police Force.

79.2 For a Final Salary New Member the Final Salary Normal Pension Age is his 55th birthday and the Final Salary Compulsory Retirement Age is his 65th birthday.

79.3 Each year of police service of a Final Salary New Member, of whatever rank, shall, except for years of police service in excess of 35 years, be counted as one and one seventh year of Pensionable Service.

79.4 In this Rule the expression 'Guernsey Police Force' means service as a member of the Guernsey Police Force and includes service as a member of any other police force approved by the Committee as police service.

80. Early Retirement for Final Salary Active Members by reason of Total or Partial Incapacity

If, in the opinion of the Committee (after having consulted with the Employer and taken medical and other relevant advice), a Final Salary Protected Member or CARE Transition Member is unable effectively to discharge his duties by reason of incapacity, he may be retired by the Employer with the prior approval of the Committee before his Normal Pension Age and in such case he shall be entitled on his retirement to a Pension calculated as follows:

- (a) if he is retired by reason of Total Incapacity and provided the Ill Health Condition is met, he shall be entitled to a Pension based on the Member's Pensionable Service plus in the case of Final Salary Protected Members (only) the Additional Pensionable Service provided further that if Rule 43 applies the Additional Pensionable Service shall be half rate or nil as the case may be; or

- (b) if he is retired by reason of Partial Incapacity and provided the Ill Health Condition is met he shall be entitled to a Pension based on the Member's Pensionable Service; or
- (c) if the Member's years of Pensionable Service are less than 2 years, that Member shall be entitled (whether he is retired for Total or Partial Incapacity) to a payment:
 - (i) equal to 1/12 of Final Pensionable Salary and, if a Final Salary Existing Member, a Terminal Grant;
 - or
 - (ii) a Contribution Refund plus compound interest at 3% per annum with yearly rests at each 31st December, whichever is the greater.

81. Benefits for early leavers from the Final Salary Scheme

81.1 If a Final Salary Protected Member or CARE Transition Member:

- (a) retires or resigns from Pensionable Service;
- (b) before attaining his Normal Pension Age; and
- (c) has at least two years of Pensionable Service,

he shall become a Final Salary Deferred Member (in relation to his benefits under the Final Salary Scheme) and the Committee shall pay him a Pension upon him reaching his Normal Pension Age.

81.2 Unless the Committee otherwise agrees, the Pension shall not be paid until he reaches his Final Salary Normal Pension Age.

82. Early Retirement for a Final Salary Protected Member or CARE Transition Member

82.1 This Rule applies in the case of a Final Salary Protected Member or a CARE Transition Member who:

- (a) is in the case of a Final Salary Existing Member between the age of 50 and his Normal Pension Age and in the case of a Final Salary New Member is between the age of 55 and his Normal Pension Age (and noting that this is in the case of a Final Salary New Member of the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service or the Guernsey Police Force, the age of 65); and
- (b) is entitled to a Pension which is not to be paid until he attains his Normal Pension Age or in the case of a Final Salary New Member of

the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service or the Guernsey Police Force, the age of 65; and

- (c) has given to the Committee at least 3 months' written notice (or such shorter period of written notice as the Committee may accept in his particular case) of his election for actuarially reduced benefits on and after a date specified in the notice (the Payment Date).

82.2 In a case in which this Rule applies the Member shall be entitled, in place of any other benefits to which he may otherwise have become entitled under these Final Salary Rules on the Payment Date, to an actuarially calculated proportion of the Pension which would have been payable if he had reached his Normal Pension Age on the Payment Date, subject to the provisions of Rule 70.

82.3 The actuarially calculated proportions referred to in this Rule are such as are ascertainable by reference to tables prepared by the Actuary from time to time and published by the Committee for the purposes of this Rule as at the Payment Date.

82.4 A notice given under Rule 82.1(c) may be withdrawn by a further notice in writing given to the Committee by the Member at any time before, but not on or after, the Payment Date.

82.5 Rule 74 shall apply to any Member wishing to elect for actuarially reduced benefits under this Rule 82.

83. Early Retirement for Final Salary Deferred Members

With the Committee's consent a Final Salary Deferred Member may draw a pension:

- (a) After attaining the Normal Minimum Pension Age to which the provisions of Rule 82 applies; or
- (b) If he is suffering from Total Incapacity.

84. Rules on Early Retirement From the Final Salary Scheme on grounds of Redundancy or Diminished Efficiency no longer apply

Rule 26 and Rule 27 of the Original Documents shall no longer have effect.

85. Partial retirement for a Final Salary Protected Member or CARE Transition Member

85.1 This Rule applies in the case of a Final Salary Protected Member and CARE Transition Member:

- (a) who is over the age of 55; and
- (b) has two or more years' Pensionable Service; and
- (c) who has given to the Committee at least 3 months written notice (or such shorter period of written notice as the Committee may accept in his particular case) of his election for a partial Pension of not more than 75% of his accrued Pension on and after a date specified in the notice (the Partial Pension Payment Date); and
- (d) where, immediately following the taking of a partial Pension, the Salary received by that member will be reduced by 20% or more from the Salary received by that Member immediately prior to the taking of the partial Pension.

85.2 In a case in which this Rule applies the Member shall be entitled, in substitution for any other benefits to which he may otherwise have become entitled under any other provision of these Rules on the Partial Pension Payment Date, to an actuarially calculated proportion of the Pension payable in relation to that proportion of the accrued benefits to which the partial Pension notice relates as if he had left Service on that date.

85.3 The actuarially calculated proportions referred to in this Rule are such as are ascertainable by reference to tables prepared by the Actuary from time to time and published by the Committee for the purposes of this Rule as at the Partial Pension Payment Date.

85.4 A notice given under sub-paragraph 85.1(c) of this Rule may be withdrawn, by a further notice in writing given to the Committee by the Member, at any time before, but not on or after, the Partial Pension Payment Date.

85.5 A member may not elect to take a partial Pension on more than two occasions.

85.6 Rule 74 in relation to commutation of pension benefits to lump sums shall be applicable to any member wishing to take a partial pension under this Rule 85.

85.7 Any Pension payable to a Member upon retiring (whether before or after reaching his Normal Pension Age) shall be reduced by the amount of the benefits paid under this Rule and the residual benefits together with any that accrue from Pensionable Service following the taking of the partial Pension shall then comprise the basis of any further Pension entitlement upon the Member leaving Service.

85.8 If a Partial Retirement Member who has exercised an option under this Rule 85 dies before starting to draw his residual Pension (excluding any Terminal Grant), the death benefits payable must be calculated in accordance with Rule 86 (death in Service applied to the residual Salary) and Rule 88 (death in

retirement), and the lump sum payable is the lesser of the aggregate of both those sums or 3 times the amount of the Member's Salary prior to exercising the election under Rule 85.1.

86. Death of a Final Salary Protected Member or CARE Transition Member whilst in Pensionable Service

86.1 In this Rule 86 (including the Tables):

- (a) **'Death in Service Lump Sum'** means a sum equal to three times the Member's Final Pensionable Salary at the date of his death;
- (b) **'Pensionable Salary Entitlement'** means $\frac{1}{4}$ of the member's Final Pensionable Salary at the date of his death payable in three equal monthly instalments in arrears during the three months following that date;
- (c) **'Pension'** for the purpose of this Rule excludes Terminal Grant;
- (d) **'AVC Member Benefit'** means benefits payable as a result of the payment of AVC Member Contribution;
- (e) **'AVC Member Spouse Benefit'** means benefits payable as a result of the payment of AVC Member Spouse Contribution.
- (f) **'AVC Member Contribution'** means AVCs paid by the Final Salary Protected Member or CARE Transition Member (in relation to the Final Salary Scheme) under Rule 68.3 for Member added pension only and not for Spouse or Qualifying Partner added pension.
- (g) **'AVC Member Spouse Contribution'** means AVCs paid by the Final Salary Protected Member or CARE Transition Member (in relation to the Final Salary Scheme) under Rule 68.3 for Member and Spouse or Qualifying Partner added pension.
- (h) Where there is an additional Pension payable for a second or more Qualifying Child, this Pension is the total amount and is not payable for any further Qualifying Child;
- (i) Payments for a Qualifying Child are payable only for as long as they remain a Qualifying Child;
- (j) **'Pensionable Service to count for Spouse benefits (or family benefits)'** means that in relation to the entitlement to benefits under the Scheme:

- (i) a Spouse or Qualifying Partner pension is not payable to the Spouse or Qualifying Partner of a female Member who opted at that time under the States of Guernsey (Public Servants)(Pensions and other Benefits)(Amendment) Rules 1988 (the 1988 Rules) to continue to contribute to the Scheme at 5% of their Salary;
- (ii) in respect of a female Member who opted at that time under the 1988 Rules to contribute 6%, then her Pensionable Service from 1st November 1988 shall count towards a Spouse pension unless she paid back contributions in accordance with the 1988 Rules and in which case all her Pensionable Service will count;
- (iii) in respect of a female Member who opted to continue to contribute to the Scheme at the lower contribution rate under the 1988 Rules but then elected to increase her contribution under the States of Guernsey (Public Servants) (Widowers' Benefits) Rules 1998, the entitlement to a Pension or other benefits of the Spouse is to be ascertained as at the date when the election took effect;
- (iv) benefits payable to a Qualifying Partner shall be based:
 - (A) for those Deferred Members or Pensioners who had left Pensionable Service prior to 1st June 2019, on the deceased Members' Pensionable Service accruing after the 1st January 2008 (if any); and
 - (B) for Active Members who were Active Members on 1st June 2019 or who joined the Scheme on or after the 1st June 2019, on all the deceased Members' Pensionable Service that counts for Spouse benefits;
- (v) in relation to a former Member or deceased former Member who left the Scheme at any time before 31st December 2007, Pensionable Service will not count towards a Pension for any Spouse who has remarried since the date of death of the Member;
- (vi) in relation to a Member or former Member, only Pensionable Service from 6th April 1978 will count towards the Pension for a Spouse who married that Member after the date when the Service of the Member terminated, for whatever reason;
- (vii) in relation to an Ex-Teacher Member, Pensionable Service for the period prior to their date of transfer from the Teachers' Scheme to the Final Salary Scheme shall be ascertained by

reference to the provisions for relevant service in the Teachers' Regulations and as from the date of their transfer to the Final Salary Scheme prior to the Transition Date ascertained in accordance with the Final Salary Rules (and as amended by these Rules).

(k) In the formula:

'A' = Pensionable Service of Member at death

'B' = Additional Pensionable Service, provided that if Rule 43 applies this shall be half rate or nil rate as the case may be

'C' = Final Pensionable Salary

'D' = Pensionable Service to count for Spouse benefits (or family) benefits at death

86.2 If a Final Salary Protected Member or CARE Transition Member dies whilst in Pensionable Service the Committee shall pay a Pension:

- (a) to his Spouse or (subject to the provision of Evidence of Financial Dependence) a Qualifying Partner; or
- (b) if the Member is not survived by a Spouse or Qualifying Partner but is survived by a Qualifying Child, to such person as the Committee may in its discretion determine for the benefit of that Qualifying Child (or children) (if more than one in equal shares); or
- (c) if the Member is survived neither by a Spouse, Qualifying Partner nor by a Qualifying Child, to his legal personal representative; and
- (d) provided that if and for so long as the Member is survived by a Qualifying Child who is not in the custody of the Member's Spouse or Qualifying Partner, any pension payable in respect of that Qualifying Child shall be paid to such person as the Committee may in its discretion determine for the Qualifying Child's benefit.

86.3 CARE Transition Members shall receive a Pension in accordance with this Rule 86 in relation to Pensionable Service under the Final Salary Rules except that in the calculation of the benefits:

- (a) the Death in Service Lump Sum; and
- (b) Pensionable Salary Entitlement; and

- (c) the AVC Member Benefit, the AVC Member Spouse Benefit and DC Account

shall not be payable; and

- (d) there shall be excluded from any calculation any entitlement to Additional Pensionable Service,

and any such benefits in (a) – (d) shall be taken into account in relation to benefits payable under the CARE Scheme.

86.4 Pension on the death of a Final Salary Protected Member in Pensionable Service but with less than two years' Pensionable Service:

Member survived by Spouse or Qualifying Partner (with or without Qualifying Child)	Member not survived by Spouse or Qualifying Partner but survived by Qualifying Child	Member not survived by either Spouse or Qualifying Partner or Qualifying Child
<ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • DC Account; • AVC Member Contribution; • AVC Member Spouse Contribution 	<ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • DC Account; • AVC Member Contribution; • AVC Member Spouse Contribution 	<ul style="list-style-type: none"> • Death in Service Lump Sum; • DC Account; • AVC Member Contribution; • AVC Member Spouse Contribution

86.5 Pension on the death of a Final Salary Protected Member or CARE Transition Member in Pensionable Service with two or more years Pensionable Service:

1. Member survived by Spouse or Qualifying Partner, with no Qualifying Child and all Pensionable Service counts for Spouse benefits	2. Member survived by Spouse or Qualifying Partner, with no Qualifying Child and not all Pensionable Service counts for Spouse benefits
<ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • Spouse or Qualifying Partner Pension calculated in accordance with the following formula: $1/160 \times (A+B) \times C$ • DC Account; • AVC Member Contribution; • AVC Member Spouse Benefit 	<ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • Spouse or Qualifying Partner Pension calculated in accordance with the following formula: $1/160 \times (D + B) \times C$ • DC Account; • AVC Member Contribution; • AVC Member Spouse Benefit

<p>3. Member survived by Spouse or Qualifying Partner with Qualifying Child where all Pensionable Service counts for Spouse benefits</p> <ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • Spouse or Qualifying Partner Pension calculated in accordance with the following formula: $1/160 \times (A + B) \times C$ • an additional pension for first Qualifying Child calculated in accordance with the following formula $1/320 \times (A + B) \times C$ • an additional pension for second Qualifying Child (or children) calculated in accordance with the following formula: $1/320 \times (A + B) \times C$ • DC Account; • AVC Member Contribution; • AVC Member Spouse Benefit 	<p>4. Member survived by Spouse or Qualifying Partner with Qualifying Child where not all Pensionable Service counts for Spouse benefits</p> <ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • Spouse or Qualifying Partner pension calculated in accordance with the following formula: $1/160 \times (D + B) \times C$ • an additional pension for first Qualifying Child calculated in accordance with the following formula: $1/240 \times (A - D) \times C + 1/320 [D + B] \times C$ • an additional pension for second Qualifying Child (or children) calculated in accordance with the following formula: $1/240 \times (A - D) \times C + 1/320 [D + B] \times C$ • DC Account; • AVC Member Contribution; • AVC Member Spouse Benefit
<p>5. Ex-Teacher Member survived by Spouse or Qualifying Partner with Qualifying Child but where not all Pensionable Service counts for family benefits.</p> <ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • Spouse or Qualifying Partner pension calculated in accordance with the following formula: $1/160 \times [D + B] \times C$ • a pension for first Qualifying Child calculated in accordance with the following formula: $1/320 \times (D + B) \times C$ • an additional pension for second Qualifying Child (or children) calculated in accordance with the following formula: $1/320 \times (D + B) \times C$ 	<p>6. Ex Teacher Member not survived by Spouse or Qualifying Partner with Qualifying Child but where not all Pensionable Service counts for family benefits.</p> <ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • a pension for first Qualifying Child calculated in accordance with the following formula: $1/240 \times (D + B) \times C$ • an additional pension for second Qualifying Child (or children) calculated in accordance with the following formula: $1/240 \times (D + B) \times C$ • DC Account; • AVC Member Contribution; • AVC Member Spouse Contribution

<ul style="list-style-type: none"> • DC Account; • AVC Member Contribution; • AVC Member Spouse Benefit 	
<p>7. Member survived by Qualifying Child but not a Spouse or Qualifying Partner whether or not all Pensionable Service counts for Spouse benefits.</p>	<p>8. Member survived by Spouse or Qualifying Partner and Qualifying Child but the Spouse or Qualifying Partner does not qualify for benefits.</p>
<ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • a pension for first Qualifying Child calculated in accordance with the following formula: $1/240 \times (A + B) \times C$ • an additional pension for second Qualifying Child (or children) calculated in accordance with the following formula: $1/240 \times (A + B) \times C$ • DC Account; • AVC Member Contribution; • AVC Member Spouse Contribution 	<ul style="list-style-type: none"> • Death in Service Lump Sum; • Pensionable Salary Entitlement; • a pension for first Qualifying Child calculated in accordance with the following formula: $1/240 \times (A + B) \times C$ • an additional pension for second Qualifying Child (or children) calculated in accordance with the following formula: $1/240 \times (A + B) \times C$ • DC Account; • AVC Member Contribution; • AVC Member Spouse Benefit
<p>9. Member not survived by either Spouse or Qualifying Partner or Qualifying Child</p>	
<ul style="list-style-type: none"> • Death in Service Lump Sum; • DC Account; • AVC Member Contribution; • AVC Member Spouse Contribution 	

87. Death of a Final Salary Deferred Member

87.1 If a Final Salary Deferred Member dies before reaching his Normal Pension Age the Committee shall pay:

- (a) for Final Salary Existing Members, a Pension ascertained in accordance with the Rules of the Final Salary Scheme in force at 31st December 2007 and payable to the Beneficiary who would have been entitled if the Final Salary Deferred Member had been a Final Salary Protected Member on the date when he left that employment;
- (b) For Final Salary New Members, a pension ascertained by reference to the Pensionable Service of that Member as if he had died whilst in Pensionable Service on the date when he left Pensionable Service and payable to the Beneficiary who would have been entitled as if the Final

Salary New Member had died whilst in Pensionable Service on the date when he left Pensionable Service;

(c) In the case of a Final Salary New Member, if there is no Beneficiary eligible to receive a pension under Rule 87.1(b), a refund of the Member Contributions shall be payable to the personal representative of the deceased Member or to such other person as the Committee approve for the benefit of the estate of the Final Salary New Member;

(d) the:

- DC Account;
- the AVC Member Contribution; and
- the AVC Member Spouse Benefit.

87.2 The amount of any Pension payable under Rule 87.1 shall include any increase in accordance with recommendations made by the Committee and approved by the Principal Employer since the relevant date.

87.3 For a CARE Deferred Member who was a CARE Transition Member (and so that this provision applies in respect of both Final Salary New Members and Final Salary Existing Members) Rule 87.1 and 87.2 apply in relation to any period of Pensionable Service up to Transition Date.

88. Death of a Final Salary Pensioner Member

88.1 If a Final Salary Pensioner Member dies whilst in receipt of a Pension the Committee shall pay to the Beneficiary who would have been entitled to any benefit under Rule 86 if that Member had been in Pensionable Service at the date of his death:

- (a) in relation to Final Salary Protected Members, if the Pension paid to him is less than the amount of any Terminal Grant which would have been paid if he had died on the date of his retirement, the difference; and
- (b) in relation to CARE Transition Members, if the aggregate of the Pension paid to him under both the Final Salary Rules and CARE Rules together with the benefit specified in Box 1 of Rule 57.4 is less than the amount of any Terminal Grant which would have been paid if he had died on the date of his retirement, the difference; and
- (c) in relation to both Final Salary Protected Members and CARE Transition Members, if and for so long as he is survived by a Spouse or Qualifying Partner or by a Qualifying Child (or children):

- (i) for the three months following his death, a pension equal to his actual Pension (excluding Terminal Grant) at the date of his death; and
- (ii) thereafter, a Pension calculated in accordance with Rule 86 ascertained at the date of his retirement but substituting the following formula values and increased in accordance with Rule 67:

A = Pensionable Service of Member at retirement
 B = 0
 C = Final Pensionable Salary
 D = Pensionable Service to count for Spouse benefits (or family) benefits at the date of retirement

(subject in each case to there being Pensionable Service to count for Spouse's benefits or family benefits).

89 Regulation 26(1) of the Teachers' Regulations

89.1 In the case of any Existing Member of the Teachers' Scheme

- (a) who elected to transfer to the Final Salary Scheme pursuant to the Teachers' Regulations 2005; and
- (b) to whom the provisions of Regulation 26 (1) of the Teachers' Regulations applies; and
- (c) that person has a guaranteed minimum pension,

then the provisions of Regulations 26 (3) – (6) (inclusive) shall apply to that person as if those provisions were set out in full in these Rules.

89.2 The provisions of Regulations 26 (3) – (6) shall take precedence over any other Rule in the Final Salary Rules that is inconsistent with them in relation to that person, but in all other respects the Final Salary Rules shall continue to apply in full.

Part 4 Teachers' Pension Scheme

Note: These Rules are to be read in accordance with and consistently with the Teachers' Scheme established under the Teachers Regulations. Except to the extent that they are amended by this Part 4 these Rules incorporate the provisions of the Teachers' Scheme in force as at 29th February 2016 in relation to the Teachers' Pension Scheme (only).

90. Transitional Provisions – CARE Transition Members

Active Members of the Teachers' Scheme on the day that is immediately prior to the Transition Date who were within 10 years of their Normal Pension Age (ascertained in accordance with the Teachers' Scheme) as at 31st December 2013 automatically remain in the Teachers' Scheme if they have not elected within one month after the Transition Date to join the CARE Scheme. All other Active Members of the Teachers' Scheme and those who opt to join the CARE Scheme are CARE Transition Members.

91 Teachers' Pension Scheme to remain in force

91.1 The Teachers' Scheme has been closed to Eligible Employees since the implementation of the Teachers' Superannuation (Guernsey) Amendment Regulations 2005, and Eligible Employees have since that time joined the Scheme as Final Salary Scheme Members. From 1st May 2015, Eligible Employees are only entitled to join as CARE Active Members.

91.2 The CARE Rules apply to CARE Transition Members who have joined or elected to join the Scheme under Rule 90 with effect from the Transition Date, and the Teachers' Scheme apply to CARE Transition Members for their Pensionable Service up to (but not including) the Transition Date.

92. Amendments to The Teachers' Scheme

The Teachers' Scheme shall be amended by:

- (a) substituting 30% for the percentage of 25% in the commutation option of pension for lump sum; and
- (b) substituting 20% for the percentage of 25% in the partial pension option

but except as stated in this Rule the Teachers' Scheme remain unchanged.

Part 5 Original Documents (Governing the Final Salary Rules as at 29th February 2016)

The States of Guernsey (Public Servants) (Pensions and other Benefits) Rules, 1972 to 2007

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Medical and Hospital Staff) Rules, 1975

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Non-Teaching Staff) (Elizabeth College) Rules, 1975

Pensions Interchange Arrangements

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Supplementary) Rules, 1973 (Repealed)

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Medical and Hospital Staff) (Amendment) Rules, 1982

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 1988

The States of Guernsey (Public Servants) (Pensions and other Benefits) (F.S.S.N Employees) Rules, 1991

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Pre-vesting-day Postal Employees) Rules, 1994

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 1997

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment No.2) Rules, 1997

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Senior Police and Fire Brigade Officers) (Amendment) Rules, 1998

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Widowers' Benefits) Rules, 1998

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Medical and Hospital Staff) (Amendment) Rules, 1998

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Permitted Investments) (Amendment) Rules, 1999

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 1999

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 2001

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 2004

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 2005

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 2006

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 2007

The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) Rules, 2010

Part 6 Normal Pension Age for CARE Members who were members of the Final Salary Scheme on 29th February 2016

The Normal Pension Age for CARE Members who were members of the Final Salary Scheme on 29th February 2016 shall be as follows:

Date of Birth	Normal Pension Age
Before 1 January 1955	65
1 January 1955 to 31 October 1955	65 2/12
1 November 1955 to 31 August 1956	65 4/12
1 September 1956 to 30 June 1957	65 6/12
1 July 1957 to 30 April 1958	65 8/12
1 May 1958 to 28 February 1959	65 10/12
1 March 1959 to 31 December 1959	66
1 January 1960 to 31 October 1960	66 2/12
1 November 1960 to 31 August 1961	66 4/12
1 September 1961 to 30 June 1962	66 6/12
1 July 1962 to 30 April 1963	66 8/12
1 May 1963 to 29 February 1964	66 10/12
1 March 1964 to 31 December 1964	67
1 January 1965 to 31 October 1965	67 2/12
1 November 1965 to 31 August 1966	67 4/12
1 September 1966 to 30 June 1967	67 6/12
1 July 1967 to 30 April 1968	67 8/12
1 May 1968 to 28 February 1969	67 10/12
1 Mar 1969 to 31 December 1969	68
1 January 1970 to 31 October 1970	68 2/12
1 November 1970 to 31 August 1971	68 4/12
1 September 1971 to 30 June 1972	68 6/12
1 July 1972 to 30 April 1973	68 8/12
1 May 1973 to 28 February 1974	68 10/12
1 March 1974 to 31 December 1974	69
1 January 1975 to 31 October 1975	69 2/12

1 November 1975 to 31 August 1976	69 4/12
1 September 1976 to 30 June 1977	69 6/12
1 July 1977 to 30 April 1978	69 8/12
1 May 1978 to 28 February 1979	69 10/12
From 1 March 1979	70

Part 7 Special transition provisions for CARE Transition Members admitted and accruing benefits with effect from the Transition Date.

1. Special Transition Provisions

1.1 A CARE Transition Member who was admitted and has started to accrue benefits under the CARE Rules with effect from the Transition Date (under the second sentence of Rule 40.1) may at any time before the 22nd day of November 2019 elect (in accordance with this Part 7) to be subject to the special transition provisions set out in this Part 7 in substitution for the provisions of the CARE Rules that otherwise would have applied to them. Except as expressly varied by this Part 7 all other Rules of the Scheme shall continue to apply.

1.2 In this Part 7 a CARE Transition Member who has made a valid election is called an Elected CARE Transition Member.

2. Election

2.1 A CARE Transition Member, who is eligible under paragraph 1 of this Part 7 to make an election shall do so in writing by no later than 5.00 pm on 22nd day of November 2019, ('closing date') on the prescribed form of election issued to them by the Committee.

2.2 The Committee shall issue those forms not later than 5.00 pm on 28th day of May 2019 to members of the Scheme who are eligible to make an election.

2.3 Any CARE Transition Member who shall have failed for whatever reason to make an election by the closing date shall not be entitled to elect to be subject to the provisions of this Part 7 unless the Committee, in its sole discretion (acting reasonably) agrees to accept that election out of time.

3. Normal Pension Age

Subject to paragraphs 6, 7 and 8 of this Part 7:

3.1 The Normal Pension Age for an Elected CARE Transition Member is the date they attain the age of 65, subject to them remaining in Pensionable Service until the Normal Minimum Pension Age.

- 3.2 The Normal Minimum Pension Age for an Elected CARE Transition Member is the Final Salary Normal Pension Age less ten years but subject to a minimum age of 50.

4. Pension Accrual and Terminal Grant

- 4.1 The accrual rate (see Rule 50.2(b)) is one eightieth.
- 4.2 In addition, there is payable to an Elected CARE Transition Member a Terminal Grant calculated at three times the Elected CARE Transition Member's Pension (excluding Terminal Grant) payable at the Elected CARE Transition Member's Normal Pension Age¹

5. Elected CARE Transition Member Contribution Rate

- 5.1 For the purposes of Rule 42.1 an Elected CARE Transition Member whilst an Active Member must pay Member Contributions to the Committee as follows:
- (a) From the Transition Date until 31st December 2019, 7% of his Salary;
 - (b) From 1st January 2020 7.5% of his Salary.
- 5.2 An Elected CARE Transition Member will (notwithstanding Paragraph 5.1 and subject to Paragraph 5.3 of this Part 7) accrue their benefits under the CARE Rules as if they had paid 7.5% of their Salary from the Transition Date.
- 5.3 The assumption under Paragraph 5.2 that an Elected CARE Transition Member had paid 7.5% of their Salary from the Transition Date does not apply:
- (a) in determining Member Contributions paid on Salary in excess of the Earnings Cap under Rule 42.4; or
 - (b) where there is a Contribution Refund paid to the Member under Rule 46.3.

6. Elected CARE Transition Members who are employed by the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service

- 6.1 With effect from the Transition Date the Normal Pension Age and the rate of Member Contributions for an Elected CARE Transition Member who is employed by the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service is as follows:

¹ Note that the lump sum for any period prior to the Transition Date is addressed under the Final Salary Rules)

Class of Employee	Normal Pension Age	Rate of Member Contributions
Those who joined the Service prior to 1 st January 2008	55 subject to the Active Member remaining in Service with the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service until the date they attain 55 years.	(a) From the Transition Date until 31 st December 2019, 9.25% of his Salary; (b) From 1 st January 2020, 9.75% of his Salary.
Those who joined the Service after the 31 st December 2007	60 subject to the Active Member remaining in Service with the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service until the date they attain 60 years.	An Elected CARE Transition Member employed by the Guernsey Fire and Rescue Service or the Airport Fire and Rescue Service will (notwithstanding sub-paragraph (a)) accrue their benefits under the CARE Rules as if they had paid 9.75% of their Salary from the Transition Date but subject to Paragraph 6.2 .

6.2 The assumption under Paragraph 6.1 that an Elected CARE Transition Member had paid 9.75% of their Salary from the Transition Date does not apply:

- (a) in determining Member Contributions paid on Salary in excess of the Earnings Cap under Rule 42.4; or
- (b) where there is a Contribution Refund paid to the Member under Rule 46.3.

7. Elected CARE Transition Members who are members of the Guernsey Police Force

7.1 With effect from the Transition Date the Normal Pension Age and rate of Member Contributions for an Elected CARE Transition Member who is a Member of the Guernsey Police Force is as follows:

Normal Pension Age	Rate of Member Contributions
55 subject to the Active Member remaining in Service with the Guernsey Police	(a) From the Transition Date until 31 st December 2019, 9.25% of his Salary;

Force until the date they attain 55 years.	<p>(b) From 1st January 2020, 9.75% of his Salary.</p> <p>An Elected CARE Transition Member who is a member of the Guernsey Police Force will (notwithstanding sub-paragraph (a)) accrue their benefits under the CARE Rules as if they had paid 9.75% of their Salary from the Transition Date but subject to Paragraph 7.2.</p>
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7.2 The assumption under Paragraph 7.1 that an Elected CARE Transition Member had paid 9.75% of their Salary from the Transition Date does not apply:

- (a) in determining Member Contributions paid on Salary in excess of the Earnings Cap under Rule 42.4; or
- (b) where there is a Contribution Refund paid to the Member under Rule 46.3.

8. **Elected CARE Transition Members employed as a Nurse or Mental Health Officer**

8.1 With effect from the Transition Date the Normal Pension Age and rate of Member Contributions for an Elected CARE Transition Member who is employed as a Nurse or Mental Health Officer is as follows:

Normal Pension Age	Rate of Member Contributions
55 or the Final Salary Normal Pension Age (if higher) subject to the Active Member remaining employed as a Nurse or Mental Health Officer until the date they attain 55 years.	<p>(a) From the Transition Date until 31st December 2019, 7% of his Salary;</p> <p>(b) From 1st January 2020, 7.5% of his Salary.</p> <p>An Elected CARE Transition Member who is employed as a Nurse or Mental Health Officer will (notwithstanding sub-paragraph (a)) accrue their benefits under the CARE Rules as if they had paid 7.5% of their Salary from the Transition Date but subject to Paragraph 8.2.</p>

8.2 The assumption under Paragraph 8.1 that an Elected CARE Transition Member had paid 7.5% of their Salary from the Transition Date does not apply:

- (a) in determining Member Contributions paid on Salary in excess of the Earnings Cap under Rule 42.4; or
- (b) where there is a Contribution Refund paid to the Member under Rule 46.3.

9. Elected CARE Transition Members treated as CARE New Members

9.1 Except for the specific provisions set out in paragraphs 1-8 of this Part 7, and subject to paragraph 9.2 and 9.3, an Elected CARE Transition Member shall be treated in all respects with effect from the Transition Date under these Rules as a CARE New Member and not as a CARE Transition Member.

9.2 An Elected CARE Transition Member shall be treated as a CARE Transition Member and not as a CARE New Member for the purposes of the following Rules:

- Rule 45.1;
- Rule 45.2; (but for the avoidance of doubt not Rule 45.3)
- Rule 46.4;
- Rule 48.3;
- Rule 58; and
- Rule 91.2.

9.3 In relation to an Elected CARE Transition Member:

(i) Rule 1.6(c) shall be treated as having been amended so that it shall read:

‘(c) in the case of Elected CARE Transition Members the purchase of added pension.’

(ii) Rule 1.43 shall be treated as having been amended so that it shall read:

‘Final Salary Rules: the rules providing benefits on a final salary basis contained in the Original Documents but as summarised in and amended by Part 3 and which relate to Final Salary Scheme Members and also to CARE Transition Members including Elected CARE Transition Members (in relation to their Pensionable Service prior to the Transition Date)’

Part 8 Special Provisions for CARE Members holding a Relevant Office

1. General Provisions

1.1 This Schedule sets out the Member Contribution and benefits in relation to a Member of the Scheme who holds the office of Bailiff, Deputy Bailiff, Crown Law Officer or is a Judge of the Courts of Guernsey.

- 1.2 Except as otherwise specified in this Part 8, all the Rules of the Scheme apply.
- 1.3 If there is any conflict between the Rules of the Scheme and the provisions of this Part 8, then in respect of a Member who holds a Relevant Office (only), the provisions of this Part 8 shall prevail.

2. Definitions

In this Part 8 of the Rules, the following definitions apply:

- 2.1 **Bailiff and Deputy Bailiff:** the Bailiff and Deputy Bailiff respectively of the Bailiwick of Guernsey;
- 2.2 **Crown Law Officer:** HM Procureur or HM Comptroller of the Bailiwick of Guernsey;
- 2.3 **Employer:** includes the Crown, the Principal Employer or any other organisation who pays the salary of the holder of the Relevant Office;
- 2.4 **Enhancement Factor** for the purpose of Rule 13.6 is,
 X/Y (but not greater than 1) where
 X = the lower of:
(a) the additional Pensionable Service that the Member would have completed if they had remained in Pensionable Service until Normal Pension Age;
(b) 10
and Y = the number of years the CARE Member has been a member of the CARE Scheme.
- 2.5 **Judge:** the holder of a judicial office in Guernsey who is paid a salary and excludes a judge who is paid on a fee basis;
- 2.6 **Pension:** in this Part 8 Pension does not include a Terminal Grant;
- 2.7 **Relevant Office:** the office of Bailiff, Deputy Bailiff, Crown Law Officer or Judge;
- 2.8 **UK Judicial Pension Scheme:** the UK Judicial Pension Scheme 2015;
- 2.9 Where the words 'For the purposes of Rule...' are used in this Part 8 this imports the words 'and notwithstanding the provisions of that Rule..' to the intent that the Rule applies as amended, substituted and construed by the provisions of this Part 8 and shall not confer an additional right or benefit to the provisions of the Rule.

3. Extent of Part 8

- 3.1 This Part 8 sets out the benefits and Member Contribution that apply to

3.1.1 CARE Transition Members and CARE New Members who are holders of a Relevant Office and takes effect from 1st March 2016 or their date of appointment if later;

3.1.2 a Final Salary Protected Member, who at the date of their appointment to a Relevant Office exercises an option to be treated under this Part 8, and takes effect from the date of their appointment; and

applies to the Pensionable Service of that Member from (but not before) the date of their appointment to a Relevant Office.

3.2 If a Final Salary Protected Member wishes to exercise their option to be treated under this Part 8, under Rule 3.1.2 above they must do so within two calendar months from the date of their appointment and if they so elect, they shall become a Care Transition Member for the purposes of these Rules with effect from the date of their appointment.

3.3 The Member Contribution and benefits set out in this Part 8 follow the provisions of the UK Judicial Pension Scheme. If the UK Judicial Pension Scheme is amended, those amendments shall apply to the provisions of this Part 8, unless otherwise agreed between those Active Members holding a Relevant Office at that time (acting collectively) and the Committee and unless otherwise determined by the Committee shall apply from the date of the change in the UK Judicial Pension Scheme.

4. Pensionable Salary

The definition of Pensionable Salary in Rule 1.69 shall not apply to this Part 8. Pensionable Salary in this Part 8 means the Salary of the CARE Active Member (with no Earnings Cap applied).

5. Member Contributions

5.1 An Active Member appointed to a Relevant Office must pay Member Contributions under Rule 42.1 as follows:

Annual Rate of Salary	Rate of Active Members' Contributions % Salary
Up to £150,000	7.35
£150,001 and above	8.05

5.2 In the event that the rates of member contribution and/or the pay bands to which those contributions relate change in the UK Judicial Pension Scheme, the rates of Member Contribution and pay bands in the Scheme under this Part 8 shall be amended to those same rates and pay bands, unless otherwise agreed between

those Active Members holding a Relevant Office at that time (acting collectively) and the Committee, and, unless otherwise determined by the Committee, shall apply from the date of the change in the UK Judicial Pension Scheme.

5.3 Rule 42.4 shall not apply to this Part 8.

6. Employer Contributions

6.1 The Employer shall pay Ordinary Employer Contribution at the rate that the Committee shall from time to time by resolution decide having obtained the advice of the Actuary in accordance with Rule 30.1.

6.2 Rule 30.3 shall not apply to this Part 8.

6.3 The Cost Cap and Floor described in Rule 30 and Rule 42.3 shall not apply to this Part 8.

6.4 Adjustments made to the UK Judicial Pension Scheme to maintain a proper relationship between the costs of that scheme and the employer cost cap in that scheme shall also apply to this Part 8².

7. Pension Accrual

7.1 The accrual rate for the purposes of Rule 50.2 (b) is 2.32% (approximately 1/43.1). If there is any change in the accrual rate in the UK Judicial Pension Scheme, the accrual rate in this Part 8 shall be varied to the same accrual rate as shall apply to the UK Judicial Pension Scheme, with effect from the date of that change to the UK Judicial Pension Scheme unless otherwise agreed between those Active Members holding a Relevant Office at that time (acting collectively) and the Committee.

7.2 No Terminal Grant is payable under this Part 8 to a Member who is the holder of a Relevant Office

7.3 For the purposes of Rule 1.87 Scheme Year shall mean a period of 12 months ending on 31st March each year.

7.4 For the purposes of Rule 39, the calculation of an Active Member's benefits shall be based on the Scheme Year and not on the calendar year. For the purpose of Rule 39.4 the first increase will apply immediately after the 31st March of the year of accrual.

² An employer cost cap applies to the UK Judicial Pension Scheme. The cost of the UK Judicial Pension scheme is assessed against the employer cost cap at each actuarial valuation which is undertaken every few years. If the actuarial valuation indicates that the cost has moved sufficiently away from the employer cost cap, the UK Judicial Pension Scheme must take action to bring the cost of the scheme back to the employer cost cap. This could take the form for Members of the Scheme of amending benefits for future accruals or altering the level of Member Contribution.

- 7.5 In this Part 8, the CARE Revaluation as defined in Rule 1.14 shall:
- 7.5.1 for a CARE Active Member, be in accordance with Section 9 of the Public Service Pensions Act 2013; and
 - 7.5.2 for a CARE Deferred Member and a CARE Pensioner Member be in accordance with the Pensions (Increase) Act 1971,
- in each case as directed by a HM Treasury Order and notwithstanding that neither the Public Service Pensions Act 2013 nor the Pensions (Increase) Act 1971 have legislative effect in Guernsey.
- 7.6 Rule 47 shall not apply to this Part 8.
- 7.7 A worked example of pension accrual under this Part 8 for a CARE Active Member (in substitution for that set out in Rule 39.4) is:
- | | |
|---------------------|--|
| Scheme Year: | 2017/2018 |
| Pensionable Salary: | £150,000 |
| CARE accrual: | 2.32% of £150,000 = £3,480 |
| First increase: | applies from 1 st April 2018 based on HM Treasury Order |

8. Normal Pension Age

- 8.1 For the purposes of Rule 1.58, Normal Pension Age for a Member under this Part 8 means the UK State Pension Age that would apply to that Member based on the Member's date of birth as determined by section 10 of the Public Service Pensions Act 2013 (notwithstanding that this Act does not have legislative effect in Guernsey).
- 8.2 If the UK State Pension Age changes, all benefits payable under the Scheme, pursuant to this Part 8, shall be paid by reference to the revised new UK State Pension Age, including those already accrued at the date of that change.

9. Early Retirement

Notwithstanding any other Rule to the contrary and which shall not apply to the holder of a Relevant Office:

- 9.1 CARE Active Members who leave Pensionable Service before Normal Pension Age and CARE Deferred Members shall be entitled to draw their pension before Normal Pension Age, after they have reached the age of 55 or earlier on grounds of ill health.
- 9.2 Pension drawn before the Member has reached Normal Pension Age shall be subject to an early retirement reduction determined by the Committee after they have obtained the advice of the Actuary.

- 9.3 A CARE Active Member may opt to make periodic payments throughout their Pensionable Service to attain a pension age up to three years below the Member's Normal Pension Age provided that it would achieve an effective pension age of at least 65.
- 9.4 The amount of any periodic payments payable under Rule 9.3 of this Part 8 shall be determined by the Committee after obtaining the advice of the Actuary.
- 9.5 Rule 45.3 shall not apply to this Part 8.
- 9.6 Upon leaving Pensionable Service, CARE Active Members shall be entitled (and which is in addition to the option in Rule 9.3 of this Part 8) to buy out all of the actuarial reduction from their CARE Scheme benefit in the event that they retire before the Normal Pension Age. The amount of the single payment payable under this Rule 9.6 of Part 8 shall be determined by the Committee after obtaining the advice of the Actuary.

10. Late Retirement

For the purposes of Rule 53:

- 10.1 CARE Active Members who remain in Pensionable Service and CARE Deferred Members who draw their Pension (in either case) after having reached Normal Pension Age shall be entitled to a late retirement augmentation factor applied to the Pension they have accrued under this Part 8. The late retirement augmentation factor shall be determined by the Committee after obtaining the advice of the Actuary.
- 10.2 A CARE Active Member who continues in Service after reaching Normal Pension Age shall be paid a Pension calculated in accordance with Rule 53 and for the avoidance of doubt the accrual rate in Rule 50.2 shall be calculated under Rule 7 of this Part 8.

11. Partial Retirement

- 11.1 A Partial Retirement Member falling within Rule 51 may notwithstanding Rule 51.2 (a) elect to receive the whole of their Pension relating to Pensionable Service accrued under this Part 8.
- 11.2 Notwithstanding Rule 51.1 the Partial Retirement Member may only exercise the option in Rule 51.1 on one occasion.

12. Medical Retirement

- 12.1 For the purposes of Rule 52.1(c) a CARE Active Member may retire on the grounds of Total Incapacity if in the Committee's opinion, and having taken medical advice, he has suffered a permanent breakdown in health which results in him not being able to properly discharge the duties of the Relevant Office.

- 12.2 For the purposes of Rule 52.5, augmentation to the Member's Pension shall be based on the CARE Active Member's Pensionable Salary as at the date of retirement.

13. Death Benefits

- 13.1 For the purposes of Rule 54 the Death in Service Lump Sum is calculated as the greater of:

- (a) 2 x Final Pay (less any lump sum payments already made); and
- (b) 5 x accrued CARE Pension (less the total aggregated amount of any Pension payment already made).

- 13.2 Final Pay means the greater of the amount of Pensionable Salary in the 12 months ending on the last day of Pensionable Service or the amount of Pensionable Salary for any Scheme Year in the 10 years immediately preceding the last active Scheme Year.

- 13.3 For the purposes of Rule 54, the Pensionable Salary Entitlement shall not be payable.

- 13.4 For the purposes of Rule 54.2(h) AVC/ERR shall mean the voluntary contributions paid pursuant to Rule 9.3 and or Rule 9.6 of this Part 8 to reduce the Normal Pension Age.

- 13.5 For the purposes of Rule 54.2(i)(i) AR is the accrual rate of 1/114.94 (0.87%)(being 3/8 (37.5%) of the Member's accrual rate).

- 13.6 For the purposes of Rule 54.2(i)(iv) the augmentation to the Spouse Pension shall be:

$(3/8 \times \text{CARE Member's accrued CARE Pension accrued under this Part 8}) \times \text{Enhancement Factor}$.

- 13.7 For the purpose of Rule 54, where a Spouse Pension is paid, the additional pension for a Qualifying Child is calculated as:

$80\% \times \text{Spouse Pension}$.

Where there are 2 or more qualifying children each Qualifying Child is entitled to the appropriate fraction of 80% of the Spouse Pension and 'appropriate fraction' means $2/Y$, where Y is the number of those qualifying children.

- 13.8 For the purpose of Rule 54, where a Spouse Pension is not paid, the pension for a Qualifying Child is calculated as:

$4/3$ of the Spouse Pension.

Where there are 2 or more qualifying children, each Qualifying Child is entitled to the appropriate fraction of $4/3$ of the Spouse Pension, and 'appropriate fraction' means $2/Y$, where Y is the number of those qualifying children.

- 13.9 For the purpose of Rule 54, if the Member is more than 12 years older than the Spouse, the Spouse Pension is reduced by 2.5% for every complete year that the age between the Member and the Spouse is greater than 12 years subject to a maximum reduction of 50% of the Spouse Pension.

14. Allocation

- 14.1 A CARE Active Member or a CARE Deferred Member whose benefits are to be calculated by reference to this Part 8, may, subject to the receipt of a medical report satisfactory in all respects to the Committee, surrender part of their own Pension to provide a pension for a financial dependant, payable following the Member's death. A 'financial dependant' for the purposes of this Rule 14 means a person who is financially dependent on a Member or financially dependent on a person with whom the Member is financially interdependent.
- 14.2 The option in Rule 14.1 of this Part 8 is exercisable upon the retirement of the Member from Pensionable Service or at any time during the Pensionable Service of the Member.
- 14.3 Once an option under Rule 14.1 of this Part 8 has been exercised by the Member it cannot be revoked by the Member. The pension for the financial dependant cannot be assigned or transferred to any third party.
- 14.4 The amount of the pension for a financial dependant shall be determined by the Committee after obtaining the advice of the Actuary.

15. Re-joining the Scheme

Notwithstanding the provisions of Rule 36.3, if a Member leaves this Part 8 of the Scheme with not less than 2 years of Pensionable Service and re-joins this Part 8 of the Scheme within 5 years of the date of leaving the Scheme, then:

- 15.1 the provisions of this Part 8 shall apply for the purposes of calculating his Pension and other benefits under this Part 8 of the Scheme; and
- 15.2 his two (or more) periods of Pensionable Service under this Part 8 will be linked for the purpose of calculating the Pension and other benefits.

16. Opt-Out

- 16.1 Rules 41 and 43 shall not apply.
- 16.2 An Active Member may opt out of Pensionable Service in the CARE Scheme and if they shall do so
- (a) they may elect to have all Employer contributions paid to the Defined Contribution Scheme on their behalf;
 - (b) there is no limit on the amount of Pensionable Salary a Member may contribute to the Defined Contribution Scheme; and

- (c) the minimum contribution by a Member to the Defined Contribution Scheme is 3% of Pensionable Salary and the Employer's contribution would in that event be 19% of Pensionable Salary.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

ST PETER PORT HARBOUR DEVELOPMENT

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

1. The States' Trading Supervisory Board ("STSB") has responsibility for, inter alia, the operation of Guernsey's Harbours and it is also the Waste Disposal Authority for Guernsey.
2. On 14th December 2017, STSB and the Committee *for* the Environment & Infrastructure brought a joint policy letter to the States, setting out proposals for the future management of inert waste. The policy letter outlined proposals for future inert waste disposal, once the current Longue Hougue site is full. The policy letter identified which of certain shortlisted sites the STSB and the Committee *for* the Environment & Infrastructure recommended as the preferred way forward. The recommended site was an extension to the current land reclamation site at Longue Hougue. It was proposed to proceed with the design and approval stage, beginning with a more detailed Environmental Impact Assessment (EIA).
3. Following a successful amendment, brought by Deputies Yerby and Merrett, your petitioners note that STSB was directed to choose a second option from the shortlist, to undergo further detailed evaluation alongside an extension to the Longue Hougue site. The cost for the additional EIA was estimated at around £200,000, and the Policy & Resources Committee was given delegated authority to approve that funding. The STSB and the Committee *for* the Environment & Infrastructure subsequently applied for funding to carry out a detailed EIA on two former quarries, L'Epine and Guillotin, but the Policy & Resources Committee, in exercising its delegated authority, declined that request. Your petitioners note that this meant that the Longue Hougue site remained as the preferred option.
4. On Wednesday 24th October 2018, the President of STSB, in a speech to the Assembly noted that, as the Longue Hougue site was the remaining preferred option, "we are progressing the analysis and design stage, including a detailed EIA, on Longue Hougue South, and only Longue Hougue South. That work is expected to take around two years to complete, at a cost of up to £1.1 million, as set out in the December policy letter".
5. Your petitioners note that the Ports Master Plan (2013) identified the need for an extension to the Restricted Zone (RZ) at the St Peter Port Harbour, as well as some issues with security, and referred to an extension of St Peter Port Harbour as one of the concept options to potentially explore further.

6. Your petitioners further note that in the STSB President's speech to the Assembly in October 2018, it was acknowledged that an area to the east of the QE2 marina was an option included for the recovery or disposal of inert waste during "the first assessment phase" but that "based on various criteria, it was felt to be inferior to the preferred option of extending the Longue Hougue site".
7. Your petitioners note that the President went on to say "that evaluation was, rightly, based on its suitability as an inert waste site. That is not to say that a development at the harbour has no merit. It may actually be of considerable, lasting value, both in terms of harbour operations and in the general enhancement of the seafront area....Any such development at St Peter Port Harbour should therefore be considered on its own merits and in a wider concept, rather than simply as an inert waste site. That does not in any way preclude the potential use of inert waste if we did decide to reclaim land in that location. It is... more appropriate for the Seafront Enhancement Area ('SEA') Group to take that particular idea forward."
8. Your petitioners note that whilst the SEA Group subsequently issued a press release which stated it wished to "improve the viability of town and St Peter Port Harbour to support, grow and diversify the economy and the island's overall economic performance" no progress to date has been made on exploring any options for developing St Peter Port Harbour along the lines of the concept noted in the Ports Master Plan in 2013, or as alluded to in the President of STSB's speech.
9. In summary, your petitioners consider that, given the President of STSB's recognition that a development of St Peter Port Harbour may have considerable, lasting value; that the SEA is currently focused on opportunities to breathe new life into the town seafront; and that the 2013 Ports Master Plan has already provided a detailed investigation of what that redevelopment should involve regarding the Harbour, there is clear strategic merit to developing the Harbour, which would achieve a number of important States goals.
10. Your petitioners note that there are no strategic initiatives in place to operationally develop St Peter Port Harbour. This means that the development can take place over a longer period (for example 20 to 25 years) without impeding the normal workings of the Harbour. Your petitioners consider that this makes a development of this nature an ideal candidate for gradual construction using the island's inert waste.
11. In contrast, disposing inert waste at the Longue Hougue South site is of limited strategic value to the States or the Island economy. There is no obvious strategic use for the end product (further reclaimed land at Longue Hougue) whereas there are many strategic advantages to the redevelopment of St Peter Port Harbour. Such strategic advantages would exist even if only the first phase of the Harbour redevelopment (the four-year infill project described at paragraph 1(a) of the Prayer) were pursued using inert waste, and other options for inert waste disposal were preferred thereafter.

12. The preferred option for inert waste disposal, once the current reclamation site is full, should therefore be prioritised towards the redevelopment of St Peter Port Harbour. Besides achieving many strategic objectives of the States, this approach will provide Guernsey with some strategically important infrastructure for the future, in a way that the Longue Hougue South site never can.
13. The opportunity value for the development of St Peter Port and its harbour in terms of extra space would be 70,000 square metres of valuable land for the Seafront Enhancement Group, the Harbour Master and the States of Guernsey.
14. In accordance with Rule 4(3) of the Rules of Procedure of the States of Deliberation (that "every proposition laid before the States which has financial implications [...] shall include or have appended to it [...] an estimate of the financial implications to the States of carrying the proposal into effect") your petitioners note the following:

- (a) **Costs** – The overall costs of delivering an inert waste solution at St Peter Port Harbour are expected to be comparable to those of delivering such a solution at Longue Hougue South, over a similar timeframe. The proposals have not yet been worked up in sufficient detail to allow a more precise estimate of costs, but initial conversations with officers of STSB have not suggested any concern that this might be a more expensive long-term solution for waste disposal than that proposed at Longue Hougue South.

Some additional costs may be incurred during the design stage of the work (such as for conducting an EIA or other relevant research). The States has already agreed in principle that investigation of a second site (including an EIA) should take place, through the Merrett-Yerby amendment on Inert Waste, and the Policy & Resources Committee has been given the delegated authority to approve such funding.

- (b) **Income** – Based on advice from STSB officers, the inert waste disposal capacity for the first phase of the proposed Harbour development (as described below) is estimated at 230,000 m³ and the third phase at 350,000 m³. Assuming that 1m³ of inert waste weighs approximately 1.8 tonne, and the gate fee for inert waste disposal is £25 per tonne, the likely income from this site is estimated at £10.35m for Phase 1 and £15.75m for Phase 3.

- (c) **Funding Sources** – If the States' preferred option is the redevelopment of St Peter Port Harbour, it is assumed that the budget which would have been allocated to the development of Longue Hougue South as an inert waste disposal site will instead simply be reallocated to the Harbour development. However, your petitioners note the QEII Marina has been arguably the most successful infrastructure project undertaken by our community in modern times, and demonstrates the potential for marine projects such as this to deliver a financial return. The States could therefore consider, in due course, whether it is

appropriate for this project to be funded in part from sources which require a return (which may or may not include the States' bond issue).

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

1. To agree in principle that, in place of the proposed extension and development of the Longue Hougue South site, the preferred option for the disposal of inert waste (once the current Reclamation Site has reached full capacity) should be a redevelopment of St Peter Port Harbour in phases, which **may** include:

- (a) Phase 1: For a period of approximately four years, the creation of an initial bunded area and infill, to create an anchor point for a potential jetty (Phase 2) of up to 160 metres (or such other length or depth as STSB and the Harbour Master **could** consider to be a useful size); and
- (b) Phase 3: To consider an extended inert waste facility subject to the further consultation and investigation proposed in Propositions 3 and 4, over an estimated period of around 10-15 years;

With such adjustments to this design as may be considered appropriate further to the research and consultation proposed in Propositions 3 and 4 below;

2. To note that such a development remains consistent with the States' strategy for inert waste, which "includes provision of future on-island facilities for residual inert waste, through means of either **on-island coastal land reclamation** or quarry infill", that it reflects the objectives of the 2013 Ports Master Plan, and that it could enhance significantly the work of the Seafront Enhancement Area ('SEA') Group;
3. To direct the States Trading Supervisory Board ('STSB') to develop detailed plans for a phased development of the St Peter Port Harbour using the Island's inert waste, as set out in Proposition 1, exploring in particular:
 - (a) The creation of a jetty of 160 metres (or such other length or depth as STSB and the Harbour Master may judge to be useful) and any strategic advantages this might create for Guernsey, including opportunities to reorganise the existing Harbour site, e.g. by moving the ro-ro ramps to the new jetty;
 - (b) The creation of an extended Restricted Zone at the Harbour and its uses;
 - (c) Significant opportunities to improve current freight and security issues;
 - (d) Extensive opportunities to improve general harbour operations;
 - (e) Practical opportunities to improve accessibility in and around the Harbour; and
 - (f) Genuine opportunities to use areas in and around the Harbour differently, to the benefit of Guernsey's economy, by supporting the marine and/or tourism trade;

4. To direct STSB to consult widely on such plans, including with relevant Committees of the States, the SEA Group, the Harbour Master, St Peter Port Harbour user groups, including logistics and ferry companies, business groups, and other relevant parties, to establish the benefits and disadvantages of the proposals;
5. To direct STSB to consult with the Committee *for* the Environment & Infrastructure, the Development & Planning Authority, and any other relevant parties, to consider how best these proposals can be progressed as a medium- to long-term solution for inert waste disposal, which should include:
 - (a) Exploring any requirements for temporary storage or disposal of inert waste which may arise while these plans are being developed, or in between phases of the proposed Harbour development;
6. To direct STSB and, as appropriate, the Committee *for* the Environment & Infrastructure to report to the States, at the same time as the forthcoming Inert Waste Strategy Policy Letter, with a complementary report entitled "St Peter Port Harbour Development" that includes a benchmarking report, timelines, costs, and a full business plan, no later than the end of December 2019; and
7. To direct the Policy & Resources Committee to make available to STSB the resources necessary to complete the additional investigations and policy work required to facilitate this.

To delegate authority to the Policy & Resources Committee to approve expenditure on any Environmental Impact Analysis and Business analysis.

To direct Policy and Resources to make available any extra resources to STSB for any work required by the Harbour Master in his investigations and considerations for the extension of the Restricted Zone which may include variations of Phase 1, Phase 2 and Phase 3 as described in 1(a) and 1(b)

AND YOUR PETITIONERS WILL EVER PRAY
GUERNSEY

This 21st day of March 2019

Deputy N R Inder

The original signed copy of
this Requete is held at the
Greffé

Deputy B J E Paint

Deputy H J R Soulsby

Deputy L S Trott

Deputy J P Le Tocq

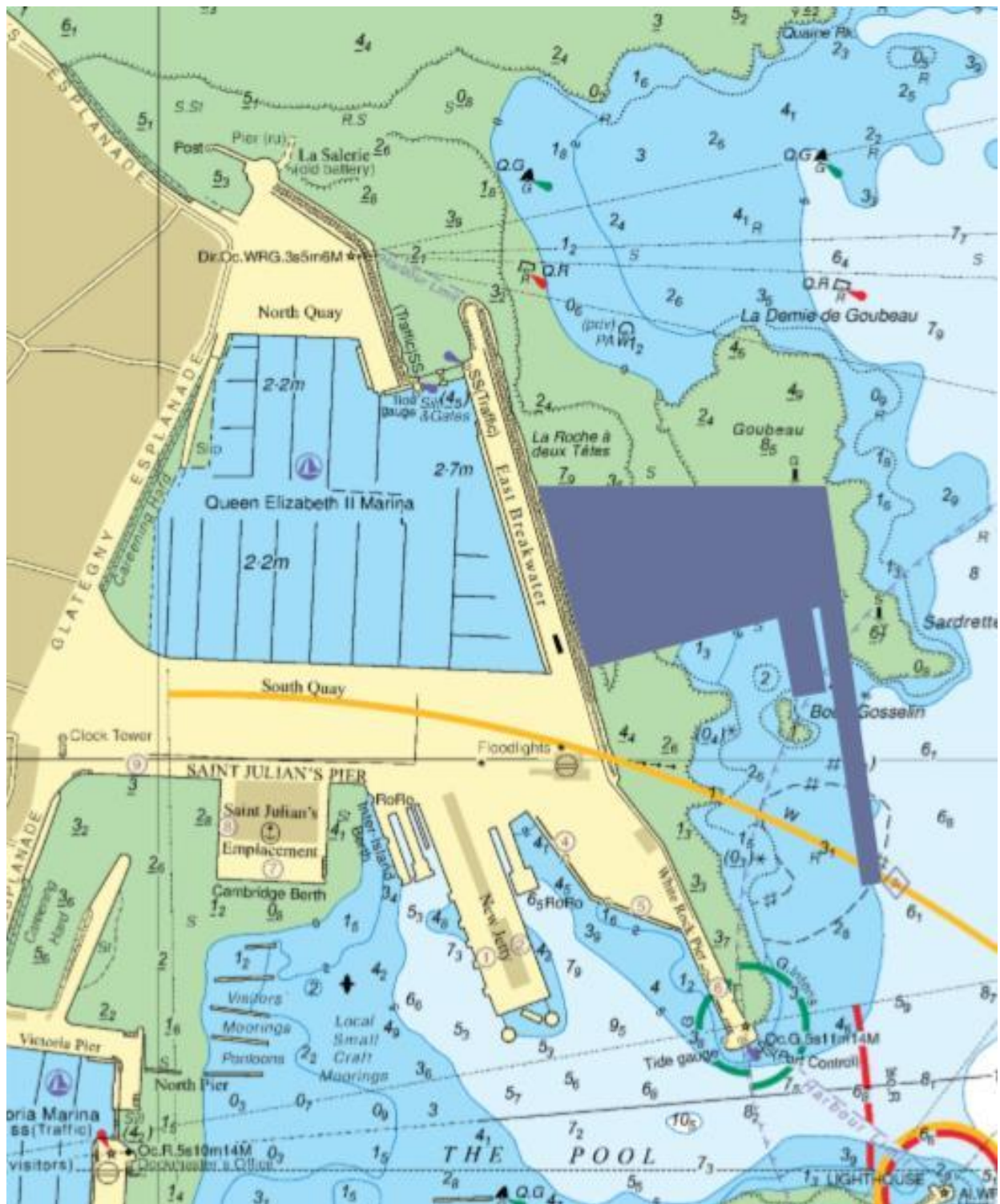
Deputy R G Prow

Deputy A H Brouard

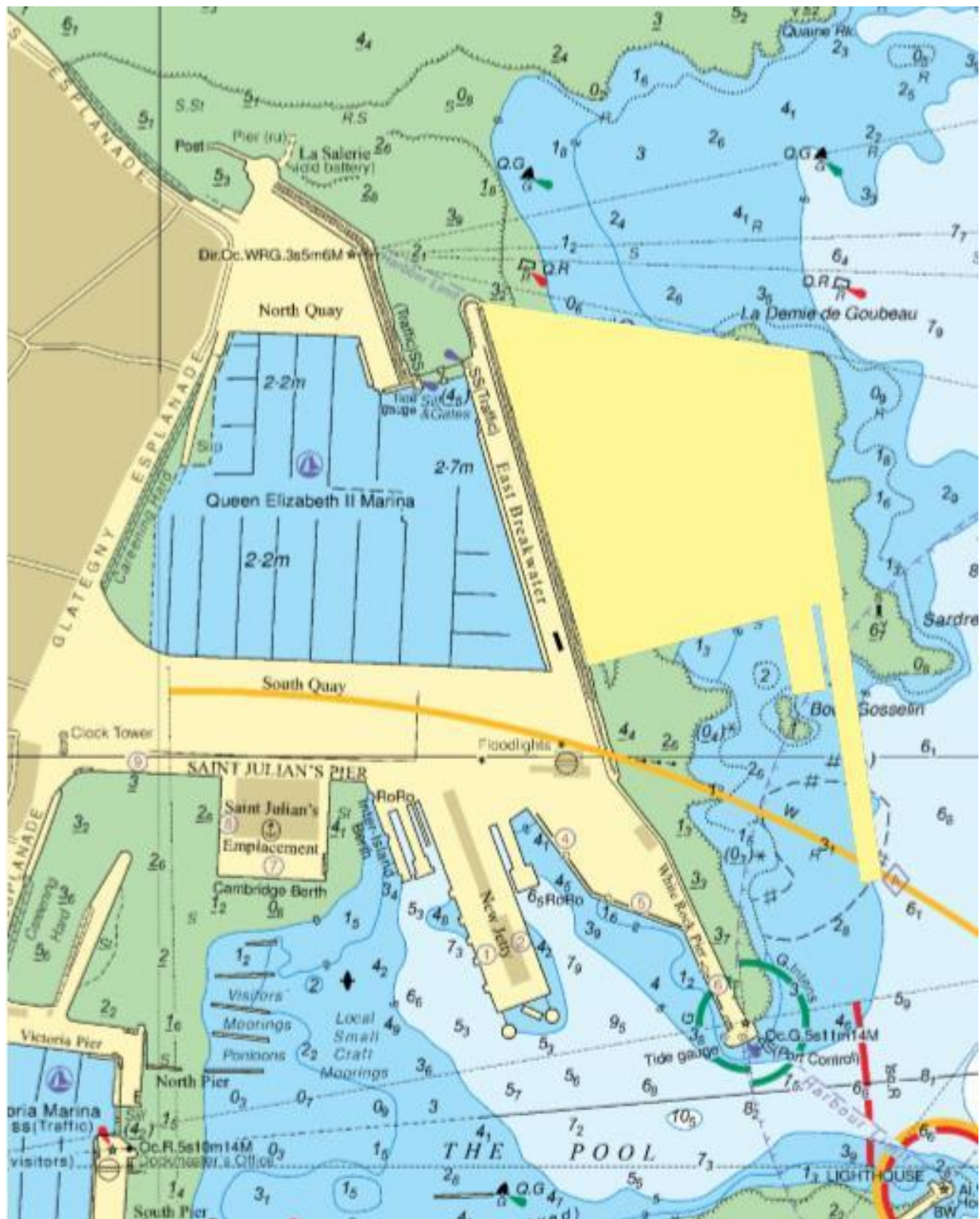
Phase 1 illustrative



Phase 2 illustrative



Phase 3 illustrative



THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

SCRUTINY MANAGEMENT COMMITTEE

ANNUAL REPORT 2018

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

15 April 2019

Dear Sir,

I am pleased to present the Scrutiny Management Committee's Annual Report for 2018.

In 2018, the Scrutiny Management Committee continued to hold a significant number of public hearings. We also continued to undertake major evidence-led reviews related to substantial policy issues, such as the review of 'In-work Poverty' which was debated by the Assembly in January 2019.

We have always believed that it was important to conduct regular public hearings as this allows us to monitor the progress being made by Committees against their policies, to analyse their management of resources and to help identify areas of significant concern that might justify a major review. Importantly, public hearings facilitate transparent scrutiny in the public domain allowing new information to be highlighted which may previously have been overlooked or simply not released. At the same time, conducting full evidence-centred reviews of policy and financial matters are also a critical focus for us.

The Scrutiny Management Committee continues to adopt a strategic approach ensuring we prioritise carefully matters requiring formal scrutiny. We have limited resources and cannot hope to attend to every issue that arises.

In 2019, our main focus will be on a challenging and interesting work programme comprising four new reviews: the Access to Public Information regime; the Capital Allocation process; the Recruitment and Retention of key public sector workers; and oversight of an efficiency review of Aurigny, to be carried out jointly with the States' Trading Supervisory Board.

The Scrutiny Management Committee also looks forward to considering the forthcoming Policy Letter from the Committee *for* Education, Sport & Culture due to be published in May. Additionally, we will consider issuing Letters of Comment as and when appropriate relating to government policy of significant political and public interest.

Yours faithfully



Deputy Chris Green

President, Scrutiny Management Committee



Scrutiny Management
Committee

Scrutiny Management Committee



2018

Annual Report

States of Guernsey

Scrutiny Management Committee

www.gov.gg/scrutiny

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1. Executive Summary

This Annual Report outlines some of the work of the Scrutiny Management Committee during 2018. It also provides the Scrutiny Management Committee with an opportunity to comment on the effectiveness of the overall scrutiny framework during the same period.

The Scrutiny Management Committee provides structured and co-ordinated scrutiny of policy and services, financial affairs and legislation. We believe that, since formation in 2016, it has had a direct influence on shaping existing and future government policy. The updated process established in May 2016 has thus far been largely accepted by Committees and it has demonstrated effective, credible scrutiny.

In this political term the Scrutiny Management Committee has introduced a number of changes in the scrutiny approach such as increasing the number and frequency of public hearings. We believe that this has increased public and political awareness of key policy areas and added to transparency in the Government. To date in this political term we have held 16 public hearings which have scrutinised the Policy & Resources Committee, all Principal Committees and the States' Trading and Supervisory Board on progress in achieving their stated policies as well as critical parts of their responsibilities.

In terms of its financial scrutiny role, undertaken by the Financial Scrutiny Panel, the Scrutiny Management Committee has conducted a review and subsequently highlighted recommendations to improve the clarity of the States' Accounts; continued to review the post-implementation reports of capital projects; examined the reports of the Internal Audit Unit; and reviewed the progress made to ensure that such recommendations are properly considered and implemented. However, in its effort to collaborate with other Committees, the Financial Scrutiny Panel work programme has been frustrated on certain reviews it decided to undertake. Currently, there are reviews in the pipeline which will be actioned in 2019.

The Scrutiny Management Committee believes through its experience gained to date that the new system of government is failing to allow sufficient scrutiny of financial matters. It is our collective opinion that the States of Guernsey must provide greater financial transparency and we continue to monitor developments closely. We believe additional access to information and the ability to influence policy, as enjoyed by other jurisdictions, would significantly improve the current position.

In addition, the Scrutiny Management Committee has overseen the work of the Legislation Review Panel which has sought, within the limited resources available and the constraints of its mandate¹, to consider the ongoing legislative programme. The current Members, whilst adeptly providing due consideration of legislation presented to the Panel, are frustrated by the limitations of the current system of legislative scrutiny and collectively believe additional importance and priority should be given to legislative scrutiny by the States of Guernsey.

¹ To carry out the functions of legislative scrutiny in Article 66 of the Reform Law and also to recommend any changes to legislation from which it believes the Island may benefit

2. The role of the Scrutiny Management Committee

The role of the Scrutiny Management Committee is to ensure all Committees are meeting the policy and financial objectives outlined by the States of Guernsey and that they are delivering their services effectively and efficiently. This role is undertaken in conjunction with the collective parliamentary scrutiny process that is fulfilled by individual members of the States Assembly. Scrutiny in Guernsey can only function effectively in its current form with the full cooperation of States' Members and the public sector. This requires recognition that the work of scrutinising policy, services, financial matters and draft legislation, is a vital function in our system of government.

Generally speaking, the nature of the Scrutiny Management Committee's work has to be largely retrospective if it is to deal in facts and make conclusions about evidence. Whilst our Members understand the call for 'real-time' scrutiny where possible, it is not appropriate or possible in our system of government for the Scrutiny Management Committee to question constantly the work of every States' Committee. That real time scrutiny is or at least ought to be the role of the individual members of policy making Committees who, under our system of government, are not bound by collective responsibility and are empowered to robustly challenge decisions. That said, the appropriate use of 'snap' public hearings can help to provide more timely scrutiny when possible and feasible.

The Scrutiny Management Committee's mandate also makes it clear that it is not intended to act as an Opposition would under an executive system of government. That is not how our system is designed. Nor should we react to every single development or issue within the Government, or in Island life.

The possibility of the Scrutiny Management Committee being granted the powers, customary in most parliaments, to require the attendance of witnesses at public hearings and the supply of documents as outlined in the January 2016² Policy Letter, will be a significant step forward. The expectations that are placed by some on the Scrutiny Management Committee within the current system of government are unrealistic unless they are accompanied by further powers and resources. The Scrutiny Management Committee believes the implementation of the States Review Committee's recommendations to strengthen powers available to the new Scrutiny Management Committee may allow this Committee to start to address expectations of both the public and media.

3. Membership

The Scrutiny Management Committee had a change in membership in 2018. Deputy Peter Roffey resigned in March to become a Member of the Committee *for* Education, Sport & Culture, Deputy Jennifer Merrett was elected onto the Scrutiny Management Committee and Deputy Laurie Queripel was elected as Vice-President.

² The Scrutiny Management Committee - Powers, Resources & Impartiality - Feb 2016

Scrutiny Management Committee Members;

Deputy Chris Green – President

Deputy Laurie Queripel – Vice-President

Deputy Jennifer Merrett – Member

Advocate Peter Harwood – Non-States Member

Mrs Gill Morris - Non-States Member

4. Public Hearings

In this term, the Scrutiny Management Committee has already conducted public hearings with the Presidents and relevant senior public servants from all of the main Committees. In 2018, the public hearings focused on the 'Transformation' agenda and how it relates to the Policy & Resource Plan. The Scrutiny Management Committee public hearings are purposely not intended to be full reviews, but they do offer a real opportunity for the public to see their political leaders being held to account. This was demonstrated to good effect in the public hearings held with the 3 major spending Committees; the Committee *for* Health & Social Care, the Committee *for* Home Affairs and the Committee *for* Education, Sport & Culture. These public hearings enabled us to establish clearly how much progress had been made regarding transformation.

The public hearings have a number of advantages over States' debates and parliamentary questions posed in States' meetings. Questioning is of a type which allows a specific line of inquiry to be pursued for longer and in greater detail; both politicians and senior officers can be questioned; and there can be an inquisitorial approach to Committee Presidents with a level of challenge that is neither discourteous nor timid allowing additional information to be extracted about States' affairs than was known previously in the public domain.

During 2018 the Scrutiny Management Committee held two area-specific public hearings in order to obtain further clarity and detail regarding significant issues of public interest. The first related to progress made on the implementation of the Disability & Inclusion Strategy which appeared to have become stagnant. The second was regarding the publication of Her Majesty's Inspectorate of Constabulary (HMIC) Report, which raised public concern over the strategic direction and management of Bailiwick Law Enforcement by the Committee *for* Home Affairs.

5. Financial Scrutiny

The Financial Scrutiny Panel's role involves reviewing the annual Accounts and Budget of the States of Guernsey to determine any areas requiring further investigation; liaising with P&R in relation to the Audit; working closely with the Internal Audit Unit of the States whilst reviewing reports from that unit with regard to value for money issues; reviewing post-implementation reports of capital projects to ensure that 'Lessons to be Learned' are being disseminated and acted upon accordingly; and undertaking value for money reviews as agreed by the Scrutiny Management Committee.

Financial scrutiny also includes monitoring progress made by previous Public Accounts Committee, Scrutiny Committee and Scrutiny Management Committee investigations and recommendations, to ensure that such recommendations have been properly considered and implemented.

The Scrutiny Management Committee strongly believes that additional financial scrutiny should take place in future to ensure that the significant resources of the government are managed effectively. At the moment, overall financial scrutiny in Guernsey is limited in comparison with similar jurisdictions and it is clear the current approach applies less challenge and oversight than was applied under Guernsey's previous system of government or in comparative jurisdictions. The question should therefore be posed to Elected Members and the public whether Guernsey has correctly gauged the level of financial oversight required. Financial scrutiny will be applied to two specific areas in 2019; in relation to the Capital Funding process and Recruitment and Retention of States' key workers.

The Scrutiny Management Committee believes through its experience gained to date that the new system of government is failing to allow sufficient scrutiny of financial matters. It is our collective opinion that the previous system of government which included the Public Accounts Committee had greater strength in its ability to appropriately examine States' financial matters and hold those responsible for the public purse to account, for example by appointing and closely monitoring the work of the external auditors. The Scrutiny Management Committee through its Financial Scrutiny Panel works hard to provide robust scrutiny as appropriate and while some progress has been made, overall we consider this to be an area of weakness in the current system of government that should be addressed.

6. Legislative Scrutiny

The Legislative Review Panel has continued to review, approve and direct legislation be transmitted to the States for consideration as appropriate. The Legislation Review Panel had a busy year in 2018 considering a plethora of legislation. The Law Officers of the Crown who, as their UK counterparts, are in the midst of drafting the exiting of the European Union (Brexit) laws were also extremely busy.

Proposed legislation has to be considered extremely promptly (usually within a 4 week period). The absence of a 'Committee' stage or the opportunity for detailed review from a second chamber places a significant burden on Members of the Legislation Review Panel.

The current Members, whilst providing due consideration of legislation presented to the Panel, are frustrated by the limitations of the current system of legislative scrutiny and collectively believe additional importance and priority should be given to legislative scrutiny by the States of Guernsey. Members have also expressed concern that on occasion the correct process for agreeing draft legislation via the Legislation Review Panel is not being followed.

7. Powers, Resources and Impartiality

In pursuance of the Resolutions of the 18th February 2016³ and after consideration of the Policy Letter dated 23rd December 2015, of the Scrutiny Committee and the Public Accounts Committee, it was agreed that legislation be drafted;

(a) making provision for the Scrutiny Management Committee to have the power to send for persons, papers and records as set out in paragraphs 2.3 to 2.6 of that Policy Letter and;

(b) extending legal privilege to those providing evidence to the Scrutiny Management Committee's hearings and reviews as set out in paragraph 2.24 of that Policy Letter.

This legislation will be presented to the States of Deliberation in 2019 and if agreed, will enable the Scrutiny Management Committee to undertake its work more effectively and efficiently by having access to all the relevant information it requires and hearing evidence from the most appropriate people. The proposed legislation provides the Scrutiny Management Committee with the powers to undertake its work in an open and transparent manner without hindrance.

8. Review – In-work Poverty

The 'In-work Poverty Review' commissioned by the Scrutiny Management Committee set out to review the current policies and strategies of the States regarding 'in-work poverty' and the effectiveness of their implementation. The aim of the review was to make recommendations leading to a meaningful reduction in the number of Islanders experiencing in-work poverty in a timely manner. The review process was conducted throughout 2017 and 2018 in two main phases. The first report, published in 2017, made comment on the Panel's interim findings whilst the second report, published in November 2018, made substantive recommendations and was debated by the States in January 2019.

The Scrutiny Management Committee made a number of recommendations for future action aimed at reducing in-work poverty. These include a proposed review of the relevant elements within the current benefit and tax system, recommendations to improve data collection relevant to in-work poverty, a review of aspects of existing housing policy and, a review of possible measures to improve equity of access to both primary and emergency care.

When this Policy Letter was considered by the Assembly a successful amendment was placed by the Policy & Resources Committee changing the original Propositions from being 'to direct' action into being 'to note' and including this work stream within the next iteration of the Policy & Resources Plan. In the opinion of the Scrutiny Management Committee this is likely to result in a significant delay in action being taken to address this key issue.

In their explanatory note the Policy & Resources Committee also expressed their view that the Scrutiny Management Committee should not seek to direct Principal Committees, despite

³ [The Scrutiny Management Committee - Powers, Resources & Impartiality - Feb 2016](#)

acknowledging that this is permissible within the Rules of Procedure. This assertion is deeply troubling for the Scrutiny Management Committee and if it becomes the accepted position clearly limits the powers and potential effectiveness of the Committee moving forward.

9. Public Engagement

Since the beginning of its term of office, the Scrutiny Management Committee continues to hold regular public hearings with all the principal Committee Presidents in order to explore progress being made on the implementation of government policy and the management of public resources. A Hansard transcript is produced following each public hearing and is available online. The public hearings regarding the implementation of the Disability & Inclusion Strategy and the Committee *for* Education, Sport & Culture were also filmed and all these details along with comments from the Scrutiny Management Committee President can be accessed at <http://gov.gg/scrutiny> . We hope in the future the public hearings can also be live streamed.

Public Hearings held during 2018;

January	Implementation of the Disability & Inclusion Strategy
May	Committee <i>for</i> Health & Social Care - Transformation
September	Committee <i>for</i> Home Affairs – Transformation
November	Committee <i>for</i> Education, Sport & Culture – Transformation
December	Committee <i>for</i> Home Affairs – Her Majesty’s Inspectorate of Constabulary Report

10. Member & Staff Personal Development

A number of personal development activities have been undertaken in 2018 by both elected Members and staff. This has taken the form of in-house training, attending parliamentary conferences in Jersey and the Isle of Man and formal qualifications being undertaken as appropriate to support the work of the Scrutiny Management Committee.

In April Guernsey hosted the Committee Secretariat Network Meeting, which was attended by parliamentary clerks from the House of Commons, House of Lords, Isle of Man, States of Jersey, the National Assembly for Wales, the Northern Ireland Assembly, the Scottish Parliament and the Oireachtas. In September, Mrs Gill Morris and a staff member attended a Public Accounts Committee networking event in the Isle of Man along with politicians and staff from the above jurisdictions. This event was aimed at sharing best practice and developing approaches in the scrutiny of public finances and was found to be informative and beneficial, especially from a networking perspective.

In 2018, two members of staff achieved success on relevant academic qualifications. Suzanne Randle successfully completed a Chartered Management Institute Level 5 Diploma in Leadership

and Management and Lisa Wonnacott successfully completed the first year of a Post Graduate Diploma in Law.

11. Conclusions

The Scrutiny Management Committee believes that during 2018 it played a significant role in scrutinising key areas of government policy and spending. It has done so through increasing the number and frequency of public hearings held as well as undertaking formal reviews, but also through dialogue that has influenced policy decisions. The work of the Scrutiny Management Committee is now much more visible than in the past. This effort to raise the public profile of the formal scrutiny process was a deliberate choice by the Scrutiny Management Committee and we are pleased by the positive feedback we have received from Members of the States and the wider community.

The Scrutiny Management Committee believes that additional financial scrutiny should take place in future to ensure that the significant resources of the Government are managed effectively. It is clear that the current approach is both cost effective and arguably proportionate. However, it is also clear that the current approach applies less challenge and oversight than was applied under the previous system of government in Guernsey or in comparative jurisdictions. It is important that the reality of the current position in this regard is understood.

The Scrutiny Management Committee are frustrated by the limitations of the current system of legislative scrutiny and collectively believe additional importance and priority should be given to legislative scrutiny by the States of Guernsey.

In 2019, the Scrutiny Management Committee will concentrate on conducting extensive reviews of four areas of significant concern. We will undertake major reviews of access to public information locally; the efficiency of Aurigny; the Capital Funding process; and the efficiency and effectiveness of the current Recruitment and Retention policy for key workers within the States of Guernsey. Additionally, we will conduct public hearings as and when required regarding matters of public concern that may arise periodically. In conclusion, we expect to build upon the strong 'scrutiny' foundations already laid during this political term and ensure that the scrutiny function continues to go from strength to strength.

Appendix 1 - Scrutiny Reviews to date in this Political Term

In-work Poverty Review

In 2003, the States of Guernsey considered a policy letter for an 'anti-poverty strategy' which was advised by research from the Townsend Centre, University of Bristol. This strategy identified a number of areas for action. In the subsequent years, further policy letters have been considered within the States of Guernsey that include, The Minimum Wage (2007); The Living Wage (2015), Measuring Poverty & Income Inequality (2016) and, Comprehensive Social Welfare Benefits Model (2016).

The 'In-work Poverty Review' commissioned by the Scrutiny Management Committee set out to review the current policies and strategies of the States regarding 'in-work poverty' and the effectiveness of their implementation. The aim of the review was to make recommendations leading to a meaningful reduction in the number of Islanders experiencing in-work poverty in a timely manner. The review process was conducted throughout 2017 and 2018 in two main phases. The first report published in 2017 made comment on the Panel's interim findings whilst the second report, published in November 2018, made substantive recommendations and was debated by the States in January 2019.

The review panel comprised: Deputy P Roffey (Chair), Deputy Laurie Queripel, Deputy Rhian Tooley, Mr Wayne Bulpitt, Dr Sue Fleming and Mr Paul Ingrouille. The Terms of Reference included the following areas;

- the adequacy of Guernsey's minimum wage;
- the impact of Guernsey's taxation and Social Security System on low income households;
- the current and future provision of In-Work benefits;
- the issues related to access to affordable healthcare provision;
- the issues related to access to affordable housing; and the impact of other States' charges on low income households.

Conclusion

The In-work Poverty Policy Letter was released in November 2018⁴ and was debated in the States of Deliberation in the early part of 2019. The main recommendations of the Report are;

- The issue of in-work poverty needs to be given higher priority by government
- Guernsey must do more to ensure those on modest incomes can access affordable accommodation

⁴ [Scrutiny Management Committee - In-work Poverty Review - Policy Letter](#)

- The cost of accessing primary and emergency health care is now a major issue for a substantial proportion of the local population and it is time for action
- A more focused approach is needed towards helping the less well-off through our tax and benefit system
- Improved information is required to quantify and monitor in-work poverty in Guernsey

Appendix 2 - Attendees at Scrutiny Management Committee and Financial Scrutiny Panel Meetings

The Scrutiny Management Committee and Financial Scrutiny Panel received briefings from and posed questions to the following attendees at meetings held during 2018:

January	Scrutiny Management Committee	Briefing from a Crown Advocate – Legal Privilege
March	Scrutiny Management Committee	Policy & Resources Committee & the States’ Treasurer
April	Scrutiny Management Committee	The States’ Trading & Supervisory Board & Senior Management, Aurigny Air Services Limited
May	Scrutiny Management Committee	Policy & Resources Committee – The P&R Plan
May	Financial Scrutiny Panel	Policy & Resources Committee - Grants & Subsidies Review
June	Scrutiny Management Committee	The States’ Trading & Supervisory Board & Senior Management, Aurigny Air Services Limited
June	Financial Scrutiny Panel	The Head of Assurance, Mr Z Cheshire
August	Financial Scrutiny Panel	The Chief Operating Officer, Mr J Moriarty
November	Scrutiny Management Committee	Members’ workshop with Mr A Doherty
December	Scrutiny Management Committee	Personal representation from a States Member – Aurigny aircraft purchase

Appendix 3 - Legislation Review Panel

The Legislation Review Panel (Legislation Review Panel) has reviewed, approved and directed the following legislation be transmitted to the States for consideration. The Panel also reviewed emergency legislation to be transmitted to the Policy & Resources Committee for enactment under provisions of Article 66A (1) of the Reform (Guernsey) Law, 1948.

Legislation Review Panel Membership

Deputy C. J. Green (Chair)
Deputy L. B. Queripel
Deputy D. de G. De Lisle
Deputy J. A. B. Gollop
Deputy D. A Tindall
Non-States Member - Advocate S. W. F. Howitt
Non-States Member - Advocate M.G.A. Dunster

Legislation Reviewed by the Panel in 2018

January

1. Liquor Licensing (Amendment) Ordinance, 2018
2. Administrative Decisions (Review) (Guernsey) (Amendment) Law, 2018
3. Armed Forces (Offences and Jurisdiction) (Bailiwick of Guernsey) Law, 2018

February

1. Social Insurance (Guernsey) (Amendment) Law, 2018

March

1. Data Protection (Commencement, Amendment and Transitional) (Bailiwick of Guernsey) Ordinance, 2018
2. Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018

April

1. European Union (Brexit) (Bailiwick of Guernsey) Law, 2018
2. European Union (Amendment of Legislation) (Bailiwick of Guernsey) Law, 2018
3. International Trade Agreements (implementation) (Bailiwick of Guernsey) Law, 2018
4. Income Support (Implementation) (Amendment) Ordinance, 2018
5. Alderney (Application of Legislation) (Income Support) Ordinance, 2018
6. Income Tax (Guernsey) (Approval of Agreement with San Marino) Ordinance, 2018
7. Electoral System Referendum (Guernsey) Law, 2018 (Commencement) Ordinance, 2018

May

1. The Land Planning and Development (Exemptions) (Amendment) Ordinance, 2018
2. The Alderney (Application of Legislation) (Adoption) Ordinance, 2018
3. The Road Traffic (Miscellaneous Amendments) Ordinance, 2018

June

1. Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016 (Commencement and Amendment) Ordinance, 2018
2. Income Tax (Guernsey) (Amendment) Ordinance, 2018

July 19 – Emergency Meeting

1. The Republic of Maldives (Restrictive Measures) (Guernsey) Ordinance, 2018

September

1. Legal Aid (Guernsey and Alderney) (Schemes and Miscellaneous Provisions) Ordinance, 2018
2. Parochial Collection of Waste (Guernsey) Ordinance, 2018
3. Waste Management Services (Charging) Ordinance, 2018
4. Transfrontier Shipment of Waste (Guernsey) Ordinance, 2018
5. Sark Machinery of Government (Transfer of Functions) Ordinance, 2018
6. Director of Income Tax (Transfer of Functions) (Guernsey) Ordinance, 2018

October

1. Income Tax (Guernsey) (Approval of Agreement with United Kingdom) Ordinance, 2018
2. Income Tax (Substance Requirements) (Guernsey) (Amendment) Ordinance, 2018
3. Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2018
4. Health Service (Benefit) (Amendment) Ordinance, 2018
5. Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2018
6. Severe Disability Benefit and Carer's Allowance Ordinance, 2018
7. Family Allowances Ordinance, 2018
8. Income Support (Implementation) (Amendment) (No. 2) Ordinance, 2018
9. Probation (Bailiwick of Guernsey) Law, 2018
10. Referendums (Enabling Provisions) (Guernsey) Law, 2018
11. Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2018
12. Sanctions (Bailiwick of Guernsey) Law, 2018

October 25 – Emergency Meeting

1. The Chemical Weapons (Restrictive Measures) (Guernsey) Ordinance, 2018

November

1. Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2018
2. Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018
3. Terrorism and Crime (Bailiwick of Guernsey) (Amendment) Ordinance, 2018
4. Terrorist Asset-Freezing (Bailiwick of Guernsey) (Amendment) Ordinance, 2018
5. Disclosure (Bailiwick of Guernsey) (Amendment) Ordinance, 2018
6. Financial Services Ombudsman (Bailiwick of Guernsey) (Amendment) Ordinance, 2018
7. Merchant Shipping (Miscellaneous Repeals, etc.) (Bailiwick of Guernsey) Ordinance, 2018
8. Register of Driving Instructors (Guernsey) Law, 2018

Appendix 4 - Scrutiny Management Committee Mandate

Constituted as a committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the 27th of November, 2015.

- **Constitution**

A President who shall be a member of the States: provided that the President of the Scrutiny Management Committee shall not be the President or a member of the Policy & Resources Committee or the President or a member of any of the six Principal Committees; and two members who shall be members of the States: provided that a member of the Scrutiny Management Committee shall not be the President or a member of the Policy & Resources Committee or the President or a member of more than one of the six Principal Committees; and two voting members who shall not be members of the States and who shall be elected by the States.

- **Duties & Powers**

To lead and co-ordinate the scrutiny of committees of the States and those organisations which are in receipt of public funds, or which have been established by legislation, by reviewing and examining legislation, policies, services and the use of monies and other resources.

As far as is reasonably practicable, to appoint scrutiny panels (whether task and finish or standing panels) to carry out the work of reviewing and scrutinising committees' policies and services and their management of monies and other resources entrusted to them: provided that neither the President nor the members of the Policy & Resources Committee shall serve on such scrutiny panels and also provided that the Committee retains the power, if it so wishes, to carry out any review itself rather than through an appointed panel and also provided that the Committee shall at all times be responsible, and accountable to the States, for everything done by the Committee and any panels it has appointed, including the content of any report issued under its name.

To appoint a Legislation Review Panel to carry out the functions of legislative scrutiny in Article 66 of the Reform Law and also to recommend any changes to legislation from which it believes the Island may benefit: provided that the Committee shall at all times be responsible, and accountable to the States, for everything done by the Legislation Review Panel; and to constitute the Legislation Review Panel as follows: a President who shall be a member of the Scrutiny Management Committee and also a member of the States, a minimum of four other States' members, a minimum of two non-voting members who shall not be members of the States, and any number of additional and occasional non-voting members as the Scrutiny Management Committee sees fit for the purposes of review of any item of legislation or any other matter: provided that such additional and occasional non-voting members may or may not be members of the States and also provided that neither the President nor the members of the Policy & Resources Committee shall serve on the Legislation Review Panel.

To scrutinise any matter contained in a policy letter which has been referred to the Committee by resolution of the States in accordance with any terms set out in the resolution and to submit to the

States its findings thereon within a period of time set out in the resolution, which findings, together with the original matter, shall be laid before the States.

To promote and facilitate the participation in scrutiny of the widest possible range of States' members and persons independent of the States.

When determining the subject of its reviews and examinations, to pay particular attention to the performance of committees in contributing to States' objectives and policy plans and to matters which are of substantial importance or of significant public interest.

To recognise that the carrying out of scrutiny in public where possible is likely to contribute positively to public perceptions of scrutiny.

To submit a report to the States annually which reviews the work of the Committee and its panels over the previous 12 months and which sets out the Committee's objectives and, to the extent that it is possible while retaining a flexible and responsive approach to scrutiny, an indicative programme of work over the next 12 months.

To represent the work of scrutiny in the States, and publicly to promote and champion the value of scrutiny.

To advise the States if and when in its opinion circumstances justify the establishment of a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Scrutiny Management Committee and which conferred functions on the former Legislation Select Committee, Public Accounts Committee and Scrutiny Committee.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the State.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

PANEL OF MEMBERS

REVIEW OF COMPLAINTS UNDER THE ADMINISTRATIVE DECISIONS (REVIEW)
GUERNSEY LAW, 1986 RECEIVED IN 2018

1. Executive Summary

- 1.1 The attached report is submitted in accordance with the requirements of section 8 of the Administrative Decisions (Review) (Guernsey) Law, 1986 (“the Law”). The report sets out on the complaints received between 1st January 2018 and 31st December 2018, including the findings of any Board in respect of any complaint referred to a Board and any steps taken on a reconsideration of any matter.
- 1.2 During this period, the Chief Executive received 4 formal complaints under the Review Board Law. Following careful consideration of the complaints, the Chief Executive did not refer any of the complaints not resolved informally between the complainant and the Committee whose administrative decision was the subject of the complaint, to the Chairman of the Panel of Members under section 3 of the Review Board Law.

2. Complaints received in 2018

- 2.1 Section 1 of the Law provides that all applications for a matter to be reviewed by a Review Board shall be made to the Chief Executive of the States, except where the matter complained of relates to the Policy and Resources Committee and its staff, in which case application is made to HM Greffier.
- 2.2 During this period, the Chief Executive received 4 complaints, and none were referred to HM Greffier. Table 1 below provides a breakdown of the disposal of the complaints and includes the number of complaints received in 2015, 2016 and 2017 for comparison.
- 2.3 In addition, the Chief Executive and members of the Panel of Members also received several general enquiries from members of the public about the Law. When complainants contact a member of the Panel of Members directly, they are referred to the Chief Executive in the first instance.

Table 1

Year	Number of Complaints	Number referred to the Chairman of the Panel of Members	Number not referred to the Chairman of the Panel of Members by the Chief Executive under section 3 of the Review Board Law	Number resolved informally between the complainant and the responding Committee
2018	4	--	3	1
2017	5	--	3	2
2016	7	--	3	4
2015	3	--	2	1

3. Overview of complaints received in 2018

3.1 Table 2 provides an overview of the complaints received during the above period and the disposal of each complaint.

3.2 Section 2 of the Review Board Law requires the Chief Executive or HM Greffier to,

“On receipt of an application made under section 1 of this Law the Chief Executive of the States of Guernsey or Her Majesty's Greffier, as the case may be, shall enquire into the facts of the matter and, if satisfied as a result of his enquiries that the circumstances justify a review of the matter by a Board, he shall refer the matter to the Chairman of the Panel of Members who shall, as soon as may be, appoint a Board in accordance with this Law and thereafter forthwith refer the matter to the Board so constituted for the Board's action in accordance with this Law.”

3.3 Further, section 3 of the Review Board Law sets out the circumstances where the Chief Executive of the States of Guernsey or HM Greffier shall not refer a complaint to the Chairman of the Panel of Members. Section 3 sets out six different circumstances where he is not required to refer a complaint to the Chairman of the Panel of Members, namely if he is of the opinion,

*“(a) the matter complained of is not within the jurisdiction of a Board,
(b) the matter complained of relates to a decision, act or omission of which the complainant has had knowledge for more than twelve months,
(c) the subject matter of the complaint is trivial,
(d) the complaint is frivolous, vexatious or not made in good faith,
(e) the complainant has not a sufficient personal interest in the subject matter of the complaint,*

(f) the complainant has in respect of the matter complained of a right of appeal, reference or review or a remedy by way of proceedings in any court of law unless, in any such case, [the Chief Executive of the States of Guernsey] or Her Majesty's Greffier, as the case may be, is satisfied that in the particular circumstances it is not reasonable to expect the complainant to resort to or to have resorted to that right or remedy."

3.4 Table 2 below provides a brief summary of the complaints received by the Chief Executive between 1st January 2018 and 31st December 2018. The information is presented so as to ensure the anonymity of the complaints, especially as several complaints related to administrative decisions which affected children and vulnerable adults. Appendix 1 contains details of the complaints received during 2015, 2016 and 2017 for comparison and reference.

Table 2

	Committee	Outline of Complaint	Action & Decision
A	Committee <i>for</i> Health & Social Care	A complaint against a decision of the Committee not to refer a patient for surgery off-Island.	The Chief Executive did not refer the matter to the Chairman of the Panel as the complainant had a remedy by way of proceedings in any court and it was not unreasonable for the complainant to resort to that remedy (see section 3(f) of the Review Board Law).
B	Committee <i>for</i> Education, Sport & Culture	A complaint against a decision of the Committee not to make an award under its policy for Independent Bursary Awards.	The Chief Executive did not refer the matter to the Chairman of the Panel as the complainant had a remedy by way of proceedings in any court and it was not unreasonable for the complainant to resort to that remedy (see section 3(f) of the Review Board Law).

	Committee	Outline of Complaint	Action & Decision
C	Committee <i>for</i> Employment & Social Security	A complaint against a decision of the Committee in respect of classification as an insured person under the Social Insurance (Contributions) Regulations, 2000.	The Chief Executive did not refer the matter to the Chairman of the Panel as the complainant had a remedy by way of appeal to the Royal Court against the Committee's decision under the Social Insurance (Guernsey) Law, 1978 and it was not unreasonable for the complainant to resort to that remedy (see section 3(f) of the Review Board Law).
D	Development & Planning Authority	A complaint against a decision of the Authority in respect of an alleged breach of development control under the Land Planning and Development (Guernsey) Law, 2005.	The complainant did not pursue the matter following further discussions with the Authority.

Deputy C Green
Chairman of the Panel of Members

Appendix 1

Complaints received under the Administrative Decisions (Review) Guernsey Law, 1986 in 2015, 2016 and 2017

2015 Complaints			
	Committee	Outline of Complaint	Action & Decision
A	Housing Department	A complaint against a decision of the Department under the Housing (Control of Occupation) (Guernsey) Law, 1994 in respect of a non-employment-related housing licence.	The Chief Executive did not refer the matter to the Chairman of the Panel as the complainant had a right of appeal under the Housing (Control of Occupation) (Guernsey) Law, 1994 to the Royal Court and it was not unreasonable for the complainant to resort to that remedy (see section 3(f) of the Review Board Law).
B	Environment Department	A complaint against a decision of the Department under the Land Planning and Development (Guernsey) Law, 2005 and the Land Planning and Development (Enforcement) Ordinance, 2007 in respect of the authorised use of land.	The Chief Executive did not refer the matter to the Chairman of the Panel as the complainant had a right of appeal before the Planning Tribunal and it was not unreasonable for the complainant to resort to that remedy (see section 3(f) of the Review Board Law).
C	Environment Department	A complaint against a decision of the Department in respect of a change of the authorised use of land under the Land Planning and Development (Use Classes) Ordinance, 2007.	The complainant did not pursue the matter following further discussions with the Department.

2016 Complaints			
	Committee	Outline of Complaint	Action & Decision
D	Housing Department	A complaint against a decision of the Department under the Housing (Control of Occupation) (Guernsey) Law, 1994 in respect of a decision in an application for an employment-related housing licence.	The Chief Executive did not refer the matter to the Chairman of the Panel as the complainant had a right of appeal under the Housing (Control of Occupation) (Guernsey) Law, 1994 to the Royal Court in relation to the matter from which the complaint arose and it was not unreasonable for the complainant to resort to that remedy (see section 3(f) of the Review Board Law).
E	Commerce and Employment Department	A complaint about changes to arrangements for the doorstep delivery of milk.	The Chief Executive did not refer the matter to the Chairman of the Panel as the complaint was in relation to commercial arrangement and so outside the jurisdiction of the Board (see section 3(a) of the Review Board Law).
F	Committee <i>for</i> Employment & Social Security and Committee <i>for</i> Health & Social Care	A complaint against a decision of the two Committees not to reimburse the complaint for the costs of private medical treatment in the UK.	The complainant did not pursue the matter following further discussions with the two Committees
G	Committee <i>for</i> Education, Sport & Culture	A complaint against a decision of the Committee not to allocate a secondary school place out of catchment.	The complainant did not pursue the matter following further discussions with the Committee.
H	Committee <i>for</i> Education, Sport & Culture	A complaint against a decision of the Committee not to allocate a primary school place out of catchment.	The complainant did not pursue the matter following further discussions with the Committee.

	Committee	Outline of Complaint	Action & Decision
I	Committee <i>for</i> Education, Sport & Culture	A complaint against a decision of the Committee not to allocate a “special place” on the basis of the 11+ assessment.	The Chief Executive did not refer the matter to the Chairman of the Panel as the complainant had a remedy by way of proceedings in any court and it was not unreasonable for the complainant to resort to that remedy (see section 3(f) of the Review Board Law).
J	Committee <i>for</i> Health & Social Care	A complaint against a decision of the Committee not to approve an application under its Policy for the Management of Individual Funding Requests (G1003).	The Chief Executive did not refer the matter to the Chairman of the Panel as the complainant had a remedy by way of proceedings in any court and it was not unreasonable for the complainant to resort to that remedy (see section 3(f) of the Review Board Law).
K	Committee <i>for</i> Health & Social Care	A complaint against a decision of the Committee not to reimburse the complainant for the costs of private medical treatment in the UK.	The complainant did not pursue the matter following further discussions with the Committee.

2017 Complaints

	Committee	Outline of Complaint	Action & Decision
L	Committee <i>for</i> Home Affairs	A complaint against a decision by the Committee in relation to prisoner transfers under the Prison (Guernsey) Ordinance, 2013 and the Crime (Sentences) Act 1997	The Chief Executive did not refer the matter to the Chairman of the Panel as matter fell outside of the jurisdiction of a Board (see section 3(a) of the Review Board Law) and the complainant had a remedy by way of proceedings in any court and it was not unreasonable for the complainant to resort to that remedy (see section 3(f) of the Review Board Law).

	Committee	Outline of Complaint	Action & Decision
M	Development & Planning Authority	A complaint by third party representors against a decision of the Authority to grant permission for a planning application.	The Chief Executive did not refer the matter to the Chairman of the Panel as the complainant had a remedy by way of proceedings in any court and it was not unreasonable for the complainant to resort to that remedy (see section 3(f) of the Review Board Law).
N	Committee <i>for</i> Health & Social Care	A complaint by a third party about the care arrangements for a family member.	The Chief Executive did not refer the matter to the Chairman of the Panel as matter fell outside of the jurisdiction of a Board (see section 3(a) of the Review Board Law).
O	Committee <i>for</i> Education, Sport & Culture	A complaint against a decision of the Committee not to provide funding for post-16 off-Island vocational training.	The complainant did not pursue the matter following further discussions with the Committee.
P	States Trading Supervisory Board	A complaint about the impact of maintenance of States owned land adjoining land owned by the complainant.	The complainant did not pursue the matter following further discussions with the Board.