BILLET D'ÉTAT

VIII
2001

WEDNESDAY, 25th APRIL, 2001

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B I L L E T D ' É T A T

TO THE MEMBERS OF THE STATES OF

THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE, on WEDNESDAY,** the **25th APRIL, 2001,** immediately after the Meeting already convened for that day.

THE GAMBLING (CHANNEL ISLANDS LOTTERY) (AMENDMENT) ORDINANCE, 2001

The States are asked to decide:–

I.—Whether they are of opinion to approve the draft Ordinance entitled "The Gambling (Channel Islands Lottery) (Amendment) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

THE PUBLIC HOLIDAYS ORDINANCE, 2001

The States are asked to decide:–

II.—Whether they are of opinion to approve the draft Ordinance entitled "The Public Holidays Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

THE LIMITED PARTNERSHIPS (GUERNSEY) (AMENDMENT) LAW, 1997 (COMMENCEMENT) ORDINANCE, 2001

The States are asked to decide:–

III.—Whether they are of opinion to approve the draft Ordinance entitled "The Limited Partnerships (Guernsey) (Amendment) Law, 1997 (Commencement) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

STATES ADVISORY AND FINANCE COMMITTEE

THE REHABILITATION OF OFFENDERS

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

28th February, 2001.

Sir,

THE REHABILITATION OF OFFENDERS

1. The Advisory and Finance Committee has, following discussions with Deputy Mrs P. Mellor, for some time, been considering whether legislation on the lines of the United Kingdom Rehabilitation of Offenders Act 1974 ("The Act") should be introduced into the Bailiwick and, if so, what form that legislation should take.

2. The purpose of The Act is to give effect to the principle that when a person has made a sincere and successful attempt to live down a conviction and 'go straight' then both common justice and the need to remove a barrier to the rehabilitation of offenders demand that his efforts should not be prejudiced by the unwarranted disclosure of that earlier conviction.

3. Article 8 of the European Convention on Human Rights grants the right to privacy which needs to be protected save in cases where an interference with it can be justified. In relation to sentences at the lower end of the range, there may be a time after which the right to privacy outweighs the need to know about a person's past. Equally, there is a need to balance the rights of others coming into contact with an individual to have a certain level of knowledge of relevant material about him or her in a straightforward non-discriminatory manner.

4. The Committee is of the opinion that the need for legislation of the type proposed is just as important in a small community such as ours as it is in a larger community such as the United Kingdom. No legislation can prevent people from "remembering" somebody's past even if they have remembered it wrongly. However, society at large should be saying that once a person has behaved himself for a requisite period of time he can put his previous bad behaviour behind him.

5. The Act sought to implement proposals contained in the Justice Report chaired by a former Lord Chancellor, Lord Gardiner. The basic idea was that if a person had behaved himself then after whatever period of time was applicable he should be allowed to put his past behind him.

6. The Committee is, however, deeply mindful that the feelings of the victims of crime also must be taken into account. For many of them the mere passage of time cannot wipe the slate clean. It is recognised that there are some offences which give rise to such lengthy sentences (and, under The Act, it is the sentence that governs whether or not a conviction is "spent") that can

never be forgotten or "spent". A conviction resulting in a sentence of more than thirty months would not be spent in the United Kingdom and the Committee believes there is no reason why it should be spent in the Bailiwick. Convictions which cannot be spent and particular circumstances when spent convictions still have to be disclosed are specified by means of an Exceptions List. If the present proposals are approved the Committee, when drafting appropriate exceptions, will balance the needs of society as a whole with those who have done wrong in the past.

7. Excluded from the ambit of The Act are entire classes of people no matter how trivial their offence. It withholds the right of statutory rehabilitation from intending entrants to all the professions and from those who wish to carry out a considerable number of occupations or to hold various forms of licence or permit. A person, for example, wishing to hold a firearms certificate, to become a veterinary surgeon or a solicitor or a handicapped children's nurse, or a traffic warden (the list is fairly comprehensive) lose the protection of The Act for the purpose of applying for such certificate or for entry to such occupations and continue to be deprived of the protection of The Act for those specified purposes. By way of an example, a solicitor has to disclose all convictions on seeking admission to the Law Society but he does not have to disclose spent convictions when applying for motor insurance. Another important aspect of The Act is that it does not apply to criminal proceedings.

8. The Committee's early view was that a much-simplified version of The Act would be appropriate for Guernsey. However, having consulted the Law Officers the Committee has become increasingly aware of a number of difficulties which would arise if our legislation in this matter was to differ significantly from that of the United Kingdom.

9. Furthermore, Jersey has recently enacted legislation which whilst modified in some ways to suit that Island's requirements is largely based on The Act. A review of The Act is to commence shortly. Depending on the outcome of that review, it might then be desirable for our legislation to be reviewed in the light of any changes made to The Act.

10. However, both the Committee and the Law Officers consider that the Rehabilitation of Offenders (Jersey) Law 200- forms a suitable model upon which Guernsey's legislation could be based. The Jersey Law, which is currently awaiting Royal Sanction, is appended to this letter. The Committee is grateful to the States of Jersey Legislation Committee for its permission to do so. The Jersey Law sets out the fundamental articles whilst the detailed arrangements such as the determination of exceptions will be made by Regulations. In Guernsey, the detailed arrangements would be made by Ordinance.

11. The authorities in Sark have been consulted and have advised that they wish the proposed legislation to apply in that Island. The matter is still under consideration in Alderney. The Advisory and Finance Committee hopes that the Alderney authorities will also wish the legislation to apply in that Island. In that case the Projet Loi will be drafted as a Bailiwick Law. Otherwise it will be drafted as being applicable only in Guernsey and Sark.

12. As previously stated, the proposed Guernsey legislation will be based, in large measure, on the Jersey Law but with adaptations and modifications appropriate to the Bailiwick. The principal purposes of each article of the Jersey Law are set out below.

    Article 1 defines the various terms used in the Law. Of particular note is the exclusion of certain convictions which are never deemed to be spent. In general, these are life sentences and sentences for terms of imprisonment exceeding 30 months.

Article 2 provides general rules for rehabilitation. Rehabilitation will not apply when an offender is given a custodial sentence of more than 30 months. Otherwise an offender will be rehabilitated after the period of time specified in his case in Article 3 if he completes his sentence and is not, on a subsequent conviction within that period, given a custodial sentence of more than 30 months.

Article 3 sets out the rehabilitation periods applicable to different sentences. Sentences which the courts may no longer impose are included so as to ensure that rehabilitation is available for all offenders now living, whenever sentence was passed on them.

Article 4 makes it clear that where two or more sentences are imposed for a conviction, it is the longer or longest rehabilitation period which applies.

Article 5 has the effect that if an offender is convicted of a further offence during a rehabilitation period and the sentence for the further offence is also subject to rehabilitation, the rehabilitation period which would have expired first is extended to expire at the same time as the other rehabilitation period. There is no extension if the second sentence is disqualification or similar prohibition.

Article 6 is concerned with an offender who breaches a binding over order or probation order imposed on an offence and consequently is sentenced by a court for that offence, where the substituted sentence is imposed after the expiry of the rehabilitation period applicable to the original order. The effect of the substituted sentence is that the offender is not then rehabilitated in respect of the conviction until the rehabilitation period for the substituted sentence has been completed.

Article 7 states the general rule that, once a person is rehabilitated in respect of a conviction ('a spent conviction') no evidence regarding that conviction may be admitted in judicial proceedings and the person is not required to disclose the conviction in judicial proceedings.

Article 8 sets out circumstances in which the general rule in Article 7 does not apply. Most notably, the rule does not apply to criminal proceedings and proceedings concerned with minors and may be overridden, in the interests of justice, in other proceedings by the court or tribunal hearing the proceedings. In addition, power is given to the States of Jersey to make Regulations disapplying the rule in other proceedings.

Article 9 applies to defamation actions founded on the publication of details of a spent conviction and modifies defences of justification, fair comment and privilege available to the defendant.

Article 10 states the effect of rehabilitation in circumstances other than judicial proceedings. The general rule is that a person is not required to disclose a spent conviction and may not be dismissed or excluded from any occupation by reason only of a spent conviction. Power is given to the States of Jersey to make Regulations disapplying the rule in specified cases.

Article 11 creates two offences. It is an offence for a person, acting in the course of his official duties, to disclose information regarding a spent conviction to a person other than the rehabilitated person, unless he does so at the request of the rehabilitated person. The penalty for the offence is a fine up to level 3 on the Jersey standard scale (maximum £2,000). It is also an offence for a person to obtain information regarding a spent conviction by means of fraud,

dishonesty or a bribe. The penalty for the offence is imprisonment for up to 6 months and/or a fine up to level 4 on the Jersey standard scale (maximum £5,000). Power is given to the States of Jersey to make Regulations allowing the disclosure of information regarding spent convictions in specified circumstances.

Article 12 is the citation and commencement provision.

The Schedule lists service disciplinary convictions which are not to have the effect, under Article 5, of extending an existing rehabilitation period.

13. The Advisory and Finance Committee recommends the States to agree that legislation be prepared on the lines of the Rehabilitation of Offenders (Jersey) Law 200-, subject to appropriate modifications and adaptations.

14. I have the honour to request that you be good enough to lay this matter before the States with appropriate propositions, including one directing the preparation of the necessary legislation.

I am, Sir,

Your obedient Servant,

L. C. MORGAN,

President,

States Advisory and Finance Committee.

REHABILITATION OF OFFENDERS (JERSEY) LAW 200-

ARRANGEMENT OF ARTICLES

1. Interpretation

2. General rule for rehabilitation

3. Rehabilitation periods for particular sentences

4. Rehabilitation period applicable to a conviction

5. Effect of further conviction within rehabilitation period

6. Effect of sentence for breach of binding over or probation after end of rehabilitation period

7. Effect of rehabilitation: subsequent judicial proceedings

8. Limitations on rehabilitation: subsequent judicial proceedings

9. Defamation actions

10. Effect of rehabilitation: other circumstances

11. Unauthorized disclosure of spent conviction

12. Citation and commencement

Schedule - Service disciplinary convictions

REHABILITATION OF OFFENDERS (JERSEY) LAW 200-

A LAW to provide for the rehabilitation of certain offenders who have not been reconvicted, within a certain period of time, for a serious offence, to penalize the unauthorized disclosure of spent convictions, to amend the law of defamation and for connected purposes; sanctioned by Order of Her Majesty in Council of the

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(Registered on the day of 200-)

STATES OF JERSEY

The day of 200-

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law -

ARTICLE 1

Interpretation

(1) In this Law, unless the context otherwise requires -

"1935 Loi" means the Loi appliquant à cette Ile certaines des dispositions de l'Acte de Parlement initulé 'Children and Young Persons Act, 1933'[1] (23 Geo.5, c.12) confirmed by Order of His Majesty in Council of the twenty-first day of February 1935;

[1] Tome 1933-1936, page 245 and Tome 1957-1960, page 177 (both repealed by Volume 1968-1969, page 341).

Draft Rehabilitation of Offenders (Jersey) Law 200-

"1969 Law" means the Children (Jersey) Law 1969;[2]

"1994 Law" means the Criminal Justice (Young Offenders) (Jersey) Law 1994,[3]

"Air Force Act" means the Air Force Act 1955 (c.19) as it has effect in the Island by virtue of any Order in Council;

"Army Act" means the Army Act 1955 (c.18) as it has effect in the Island by virtue of any Order in Council;

"attendance centre order" means an order under Article 23 of the 1969 Law[4] or Article 8 of the 1994 Law;[5]

"binding over order" means an order for the provisional release of an offender under Article 3 of the Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée;[6]

"corresponding court-martial punishment" means a punishment awarded under section 71A(3) or (4) of the Army Act, section 71A(3) or (4) of the Air Force Act or section 43A(3) or (4) of the Naval Discipline Act;

"enactment" includes an enactment of the United Kingdom which has effect in the Island, whether by Order in Council or otherwise;

"lesser sentence" means any sentence other than a sentence excluded from rehabilitation;

2 Volume 1968-1969, page 247, Volume 1970-1972, page 511, Volume 1973-1974 page 371, Volume 1979-1981, page 25, Volume 1986-1987, pages 20 and 173, Volume 1996-1995, pages 58 and 118, Volume 1996-1997, pages 15 and 616 and Volume 1999, page 431.

3 Volume 1994-1995, page 35, Volume 1999, page 429, and R & O 8859.

4 Volume 1968-1969, page 272 and Volume 1994-1995, page 58.

5 Volume 1994-1995, page 42.

6 Tome VII, page 190.

"Naval Discipline Act" means the Naval Discipline Act 1957 (c 53) as it has effect in the Island by virtue of any Order in Council;

"official record" means a record -

(a) kept, for the purposes of its functions, by any court or public authority in the Island or by the States of Jersey Police Force or the Honorary Police or kept, in the Island or elsewhere, for the purposes of any of Her Majesty's forces; and

(b) containing information about persons convicted of offences;

"probation order" means an order under the Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée[7] made on the condition described in Article 3 thereof;

"proceedings before a judicial authority" means -

(a) proceedings before any court of law; or

(b) proceedings before any tribunal, body or person having power -

(i) by virtue of any enactment or rule of customary law or practice, or

(ii) under the rules governing any association, institution, profession, occupation or employment, or

(iii) under any provision of an agreement providing for arbitration with respect to any questions arising under the agreement,

[7] Tome VII, page 190.

to determine any question affecting the rights, privileges, obligations or liabilities of any person, or to receive evidence affecting the determination of any such question;

"rehabilitation" means rehabilitation in accordance with and for the purposes of this Law;

"sentence" includes any order made by a court in respect of the conviction of a person of any offence or offences, other than -

(a) an order for committal; or

(b) any other order made -

(i) in default of payment of any fine or other sum adjudged to be paid by or imposed on a conviction, or

(ii) for want of sufficient distress to satisfy any such fine or other sum;

"sentence excluded from rehabilitation" means -

(a) a sentence of imprisonment for life;

(b) a sentence of custody for life;

(c) a sentence of preventive detention;

(d) a sentence of imprisonment, detention in a young offender institution, youth custody or corrective training for a term exceeding 30 months;

(e) a sentence of detention during Her Majesty's pleasure or a sentence of detention for a term exceeding

30 months passed under Article 4 of the 1935 Loi,[8] Article 13 of the 1969 Law[9] or Article 5(4) of the 1994 Law[10] or a corresponding court-martial punishment;

"service disciplinary proceedings" means any of the following -

(a) any proceedings under the Army Act, the Air Force Act or the Naval Discipline Act (whether before a court-martial or before any other court or person authorized thereunder to award a punishment in respect of any offence);

(b) any proceedings under any Act previously having effect in the Island corresponding to any of the Acts mentioned in sub-paragraph (a);

"specified information'' means information imputing that a named or otherwise identifiable rehabilitated living person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which is the subject of a spent conviction.

(2) In this Law, a reference to a sentence of detention for any term without more means a sentence passed under Article 4 of the 1935 Loi,[8] Article 13 of the 1969 Law[9] or Article 5(4) of the 1994 Law.[10]

(3) For the purposes of this Law, any finding that a person is guilty of an offence in respect of any act or omission which was the subject of service disciplinary proceedings shall be treated as a conviction and any punishment awarded or order made by virtue of Schedule 5A to the Army Act or the Air Force Act or by virtue of Schedule 4A to the Naval Discipline Act in respect of any such finding shall be treated as a sentence.

8 Tome 1933-1936, page 245 and Tome 1957-1960, page 177 (both repealed by Volume 1968-1969, page 341).

9 Volume 1968-1969, page 263 and Volume 1994-1995, page 58.

10 Volume 1994-1995, page 40.

(4) In this Law, any reference to a conviction, however expressed, includes a reference -

(a) to a conviction by or before a court outside the Island; and

(b) to any finding, other than a finding linked with a finding of insanity, in any criminal proceedings that a person has committed an offence or done the act or made the omission charged.

(5) In this Law, any reference to circumstances ancillary to a conviction shall be construed as a reference to any of the following -

(a) the offence or offences which were the subject of that conviction;

(b) the conduct constituting that offence or those offences; and

(c) any process or proceedings preliminary to that conviction, any sentence imposed in respect of that conviction, any proceedings, whether by way of appeal or otherwise, for reviewing that conviction or any such sentence, and anything done pursuant to, or undergone in compliance with, any such sentence.

(6) In this Law, a reference to an Article by number only is a reference to the Article of that number in this Law and a reference in an Article or other division of this Law to a paragraph or sub-paragraph by number only is a reference to the paragraph or sub-paragraph of that number in the Article or other division in which that reference occurs.

(7) In this Law, a reference to an enactment, is a reference to that enactment as amended from time to time and includes a reference to that enactment as extended or applied under another enactment, including another provision of this Law.

ARTICLE 2

General rule for rehabilitation

(1) Rehabilitation shall only apply to a conviction, whether before or after this Law comes into force, for an offence for which a lesser sentence is imposed.

(2) An individual shall be rehabilitated in respect of such a conviction if -

(a) during the rehabilitation period applicable to the conviction, there is not imposed on him, for a subsequent conviction, a sentence excluded from rehabilitation; and

(b) he has served or otherwise undergone or complied with any sentence imposed on him in respect of such conviction.

(3) Where the conditions in paragraph (2) are satisfied, the individual shall be rehabilitated in respect of the conviction and the conviction treated as spent -

(a) after the end of the rehabilitation period applicable to the conviction; or

(b) where that period ended before this Law comes into force, after this Law comes into force.

(4) An individual shall not be treated as having failed to satisfy the condition in paragraph (2)(b) by reason only of

(a) the failure to pay a fine or other sum adjudged to be paid by or imposed on a conviction, or breach of a condition of a binding over order; or

(b) the breach of any condition or requirement applicable in relation to a sentence which renders the person to whom it applies liable to be dealt with for the offence for which the sentence was imposed.

ARTICLE 3

Rehabilitation periods for particular sentences

(1) The rehabilitation period applicable to a sentence specified in the first column of the table below is the period specified in the second column of that table in relation to that sentence in the case of any person or any particular description of person.

Sentence	*Rehabilitation period*
1. An absolute discharge.	6 months from the conviction date.
2. A binding over order.	Whichever is the longer of one year from the conviction date or the period beginning with that date and ending when the binding over order ceases or ceased to have effect.
3. An attendance centre order.	The period beginning with the conviction date and ending one year after the date on which the attendance centre order ceases or ceased to have effect.
4. A sentence, for a term not exceeding 6 months, of detention.	3 years from the conviction date.
5. A custodial order, where the maximum period of detention specified in the order is six months or less, under Schedule 5A to the Army Act or the Air Force Act or under Schedule 4A to the Naval Discipline Act.	3 years from the conviction date.

Sentence	*Rehabilitation period*
6. Any sentence of detention in respect of a conviction in service disciplinary proceedings.	Person aged 18 or more: 5 years from the conviction date. Person aged less than 18: 2½ years from the conviction date.
7. A fine, or any other sentence subject to rehabilitation under this Law, not being a sentence within any other item in this column of this table.	Person aged 18 or more: 5 years from the conviction date. Person aged less than 18: 2½ years from the conviction date.
8. A sentence, for a term exceeding 6 months but not exceeding 30 months, of detention.	5 years from the conviction date.
9. A probation order.	Person aged 18 or more: 5 years from the conviction date. Person aged less than 18: whichever is the longer of 2½ years from the conviction date - or a period beginning with that date and ending when the probation order ceases or ceased to have effect
10. A sentence, for a term not exceeding 6 months, of imprisonment, detention in a young offender institution or youth custody.	Person aged 18 or more: 7 years from the conviction date Person aged less than 18: 3½ years from the conviction date.

Sentence	*Rehabilitation period*
11. A custodial order, where the maximum period of detention specified in the order is more than 6 months, under section 71AA of or Schedule 5A to the Army Act or the Air Force Act or under section 43AA of or Schedule 4A to the Naval Discipline Act.	7 years from the conviction date.
12. A sentence of dismissal from Her Majesty's service.	Person aged 18 or more: 7 years from the conviction date. Person aged less. than 18: 3½ years from the conviction date.
13. A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's Service.	Person aged 18 or more: 10 years from the conviction date Person aged less than 18: 5 years from the conviction date.
14. A sentence, for a term exceeding 6 months but not exceeding 30 months, of imprisonment, detention in a young offender institution, youth custody or corrective training.	Person aged 18 or more: 10 years from the conviction date. Person aged less than 18: 5 years from the conviction date.

Sentence which may no longer be passed	*Rehabilitation period*
15. Birching.	One year from the conviction date.
16. A fit person order under Article 24 of the 1969 Law.[11]	Whichever is the longer of one year from the conviction date or the period beginning with that date and ending when the order ceases or ceased to have effect.
17. An approved school order under Article 7 of the 1935 Loi[12] or under Article 24 of the 1969 Law.[11] An order under Article 13 of the 1935 Loi.[12]	The period beginning with the conviction date and ending one year after the date on which the order ceases or ceased to have effect.
18. An order for detention in or committal to a detention centre or a young offenders' centre under Article 19 or 20 of the 1969 Law.[13]	3 years from the conviction date.
19. A sentence of Borstal training.	7 years from the conviction date.

(2) For the purpose of determining the rehabilitation period applicable to a person by virtue of the table above, his age shall be taken at the conviction date.

(3) Where, in respect of a conviction, an order was made imposing on the person convicted any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to the

[11] Volume 1968-1969, page 274 and Volume 1994-1995, page 58.

[12] Tome 1933-1936, page 245 and Tome 1957-1960, page 177 (both repealed by Volume 1968-1969, page 341).

[13] Volume 1968-1969, pages 268 and 269 and Volume 1994-1995, page 58.

sentence shall be a period beginning with the conviction date and ending on the date on which the disqualification, disability, prohibition or penalty, as the case may be, ceases or ceased to have effect.

(4) The States may by Regulations substitute or amend the table in paragraph (1) for the purpose of re-arranging the table or of adding a description of sentence and specifying the rehabilitation period applicable to that sentence, and may specify different rehabilitation periods in the cases of persons of different ages.

(5) For the purposes of this Article -

(a) "sentence of imprisonment" includes a sentence of penal servitude or hard labour and "tern of imprisonment" shall be construed accordingly;

(b) consecutive terms of imprisonment or of detention and terms which are wholly or partly concurrent, being terms of imprisonment or detention imposed in respect of offences of which a person was convicted in the same proceedings shall be treated as a single term; and

(c) a sentence imposed by a court outside the Island shall be treated as a sentence of that one of the descriptions in this Article which most nearly corresponds to the sentence imposed.

ARTICLE 4

Rehabilitation period applicable to a conviction

(1) Subject to Articles 5 and 6, where only one lesser sentence is imposed for a conviction, the rehabilitation period applicable to the conviction is that which is applicable to that sentence in accordance with Article 3.

(2) Subject to Articles 5 and 6, where 2 or more lesser sentences are imposed for a conviction (whether or not in the same proceedings), the rehabilitation period applicable to the conviction is that

which is applicable to each of those sentences, if the same, or, if different, the longest of the rehabilitation periods applicable to those sentences.

ARTICLE 5

Effect of further conviction within rehabilitation period

(1) This Article applies where, during the rehabilitation period applicable to a conviction ('the first conviction') -

(a) the person is convicted of a further offence ('the second conviction') and the conviction is not -

(i) a conviction in service disciplinary proceedings for an offence listed in the Schedule to this Law, or

(ii) a conviction by or before a court outside the Island of an offence in respect of conduct which, if it had taken place in the Island, would not have constituted an offence under the laws of the Island,

and

(b) a sentence excluded from rehabilitation is not imposed on him in respect of the second conviction.

(2) Subject to paragraph (3), if the rehabilitation periods applicable to the first conviction and the second conviction would end on different dates, the period which would end first shall be extended so as to end on the same date as the other period.

(3) The rehabilitation period applicable to a conviction shall not be extended where -

(a) only one lesser sentence was imposed for the other conviction; and

(b) the rehabilitation period applicable to that sentence was determined in accordance with Article 3(3).

(4) For the purposes of paragraph (2), in determining the rehabilitation period applicable to a conviction for which 2 or more lesser sentences are imposed, there shall be disregarded any rehabilitation period applicable to a sentence in accordance with Article 3(3).

ARTICLE 6

Effect of sentence for breach of binding over or probation after end of rehabilitation period

(1) This Article applies where a binding over order or probation order was imposed for a conviction and, after the end of the rehabilitation period applicable to the conviction in accordance with Article 4, the person is dealt with, in consequence of a breach of the binding over order or probation order, for the offence for which such order was imposed.

(2) Without prejudice to Article 4(2), if the rehabilitation period applicable to the conviction in accordance with that paragraph, taking into account any sentence imposed when the person is dealt with for the breach, ends later than the rehabilitation period previously applicable to the conviction, he shall be treated as not having become rehabilitated in respect of the conviction, and the conviction shall be treated as not having become spent, before the end of the new rehabilitation period.

ARTICLE 7

Effect of rehabilitation: subsequent judicial proceedings

(1) Subject to Articles 8 and 9, a person rehabilitated in respect of a conviction shall be treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence which was the subject of that conviction.

(2) Subject to Articles 8 and 9, but notwithstanding any enactment or rule of customary law to the contrary –

(a) no evidence shall be admissible in any proceedings before a judicial authority to prove that a person who has become a rehabilitated person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which was the subject of a spent conviction; and

(b) a person shall not, in any such proceedings, be asked and, if asked, shall not be required to answer, any question relating to his past which cannot be answered without acknowledging or referring to a spent conviction or spent convictions or any circumstances ancillary to such convictions.

ARTICLE 8

Limitations on rehabilitation: subsequent judicial proceedings

(1) Nothing in Article 7 shall affect -

(a) any right of Her Majesty, by virtue of Her Royal prerogative or otherwise, to grant a free pardon, to quash any conviction or sentence, or to commute any sentence;

(b) the enforcement by any process or proceedings of any fine or other sum adjudged to be paid by or imposed on a spent conviction;

(c) the issue of any process for the purpose of proceedings in respect of any breach of a condition or requirement applicable to a sentence imposed in respect of a spent conviction; or

(d) the operation of any enactment by virtue of which, in consequence of any conviction, a person is subject, otherwise than by way of sentence, to any disqualification, disability, prohibition or other penalty the period of which extends beyond the rehabilitation period applicable to the conviction.

(2) Nothing in Article 7 shall affect the determination of any issue, or prevent the admission or requirement of any evidence, relating to a person's previous convictions or to circumstances ancillary to them -

(a) in any criminal proceedings before a court in the Island, including any appeal or reference in a criminal matter,

(b) in any service disciplinary proceedings or in any proceedings on appeal from any service disciplinary proceedings;

(c) in any proceedings relating to adoption, the marriage of any minor, the exercise of the inherent jurisdiction of the Royal Court with respect to minors or the provision by any person of accommodation, care or schooling for minors;

(d) in any proceedings brought under the 1969 Law;[14]

(e) in any proceedings in which he is a party or a witness, provided that, notwithstanding Article 7, on the occasion when the issue or the admission or requirement of the evidence falls to be determined, he consents to the determination of the issue or, as the case may be, the admission or requirement of the evidence.

(3) Subject to paragraph (4), if, at any stage in any proceedings before a judicial authority in the Island, the authority is satisfied, in the light of any considerations which appear to it to be relevant, including any evidence which has been or may be thereafter put before it, that justice cannot be done in the case except by admitting or requiring evidence relating to a person's spent convictions or to circumstances ancillary to such convictions, the authority –

(a) notwithstanding Article 7, may admit or, as the case may be, require the evidence in question; and

[14] Volume 1968-1969, page 247, Volume 1970-1972, page 511, Volume 1973-1974, page 371, Volume 1979-1981, page 25, Volume 1986-1987, pages 20 and 173, Volume 1994-1995, pages 58 and 118, Volume 1996-1997, pages 15 and 616 and Volume 1999, page 431.

(b) may, in determining any issue to which the evidence relates, disregard Article 7 so far as necessary.

(4) Paragraph (3) does not apply to proceedings -

(a) to which, by virtue of paragraph (2) or any Regulations made under paragraph (5), Article 7 does not apply; or

(b) to which Article 9 applies.

(5) The States may by Regulations exclude the application of Article 7 in relation to any proceedings specified in the Regulations, other than proceedings to which Article 9 applies, to such extent and for such purposes as may be so specified.

(6) No order made by a court with respect to any person otherwise than on a conviction shall be included in any list or statement of that person's previous convictions given or made to any court which is considering how to deal with him in respect of any offence.

ARTICLE 9

Defamation actions

(1) For the purposes of this Article, "defamation action" means an action for libel or slander begun after this Law comes into force by a rehabilitated person and founded upon the publication of any matter imputing that the plaintiff has committed or been charged with or prosecuted for or convicted of or sentenced for an offence which was the subject of a spent conviction.

(2) Nothing in Article 7 shall affect a defamation action where the publication complained of took place before the conviction in question became spent.

(3) Paragraphs (4) to (8) apply to a defamation action where the publication complained of took place after the conviction in question became spent.

(4) Subject to paragraphs (6) and (7), nothing in Article 7 shall prevent the defendant in a defamation action to which this paragraph applies from relying on any defence of justification or fair comment or of absolute or qualified privilege which is available to him or restrict the matters he may establish in support of any such defence.

(5) Without prejudice to the generality of paragraph (4), where, in any such action, malice is alleged against a defendant who is relying on a defence of qualified privilege, nothing in Article 7 shall restrict the matters he may establish in rebuttal of the allegation.

(6) A defendant in any such action shall not, by virtue of paragraph (4), be entitled to rely upon the defence of justification if the publication is proved to have been made with malice.

(7) Subject to paragraph (8), a defendant in any such action shall not, by virtue of paragraph (4), be entitled to rely on any matter or adduce or require any evidence for the purpose of establishing the defence that the matter published constituted a fair and accurate report of judicial proceedings if it is proved that the publication contained a reference to evidence which was ruled to be inadmissible in the proceedings by virtue of Article 7.

(8) Paragraph (4) shall apply without the qualifications imposed by paragraph (7) in relation to -

(a) any report of judicial proceedings contained in any bona fide series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law; and

(b) any report or account of judicial proceedings published for bona fide educational, scientific or professional purposes, or given in the course of any lecture, class or discussion given or held for any of those purposes.

Draft Rehabilitation of Offenders (Jersey) Law 200-

ARTICLE 10

Effect of rehabilitation: other circumstances

(1) Subject to Regulations made under paragraph (3), where a question seeking information with respect to a person's previous convictions, offences, conduct or circumstances is put to him or to any other person otherwise than in proceedings before a judicial authority -

(a) the question shall be treated as not relating to spent convictions or to any circumstances ancillary to such convictions, and the answer to the question may be framed accordingly; and

(b) the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a spent conviction or any circumstances ancillary to such a conviction in his answer to the question -

(2) Subject to Regulations made under paragraph (3) -

(a) any obligation imposed on any person by any rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person shall not extend to requiring him to disclose a spent conviction or any circumstances ancillary to such a conviction (whether the conviction is his own or another's); and

(b) a conviction which has become spent or any circumstances ancillary to it, or any failure to disclose a spent conviction or any such circumstances, shall not be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing him in any way in any occupation or employment

(3) The States may by Regulations -

(a) make such provisions as seem to them appropriate for excluding or modifying the application of either or both of paragraph (1)(a) and (b) in relation to questions put in such circumstances as may be specified in the Regulations; and

(b) provide for such exceptions from either or both of the provisions of paragraph (2) as seem to them appropriate, in such cases or classes of case, and in relation to convictions of such a description, as may be specified in the Regulations.

ARTICLE 11

Unauthorized disclosure of spent conviction

(1) Subject to Regulations made under paragraph (4), any person who, in the course of his official duties, has or at any time has had custody of or access to any official record or the information contained in it shall be guilty of an offence if, knowing or having reasonable cause to suspect that any specified information he has obtained in the course of those duties is specified information, he discloses it to another person.

(2) In any proceedings for an offence under paragraph (1), it shall be a defence for the defendant to show that the disclosure was made -

(a) to the rehabilitated person or to another person at the express request of the rehabilitated person; or

(b) to a person whom he reasonably believed to be the rehabilitated person or to another person at the express request of a person whom he reasonably believed to be the rehabilitated person.

(3) Any person who obtains any specified information from any official record by means of any fraud, dishonesty or bribe shall be guilty of an offence.

(4) The States may by Regulations make such provision as appears to them to be appropriate for excepting from paragraph (1) the disclosure of specified information derived from an official record, in such cases or classes of case as may be specified in the Regulations.

(5) A person guilty of an offence under paragraph (1) shall be liable to a fine not exceeding level 3 on fine standard scale.[15]

(6) A person guilty of an offence under paragraph (3) shall be liable to imprisonment for a term not exceeding 6 months or a fine not exceeding level 4 on the standard scale,[15] or both.

ARTICLE 12

Citation and commencement

This Law may be cited as the Rehabilitation of Offenders (Jersey) Law 200- and shall come into force on such day as the States by Act appoint.

[15] Volume 1992-1993, page 437.

Draft Rehabilitation of Offenders (Jersey) Law 200-

SCHEDULE

(Article 5(1))

SERVICE DISCIPLINARY CONVICTIONS

1. Any conviction for an offence mentioned in this Schedule is a conviction referred to in Article 5(1)(a)(i).

Provisions of the Army Act 1955 and the Air Force Act 1955

2. Any offence under any of the provisions of the Army Act 1955 or the Air Force Act 1955 listed in the first column of the following table -

Provision	*Subject-matter*
Section 29	Offences by or in relation to sentries, persons on watch etc.
Section 29A	Failure to attend for duty, neglect of duty etc.
Section 33	Insubordinate behaviour.
Section 34	Disobedience to lawful commands.
Section 34A	Failure to provide a sample for drug testing.
Section 35	Obstruction of provost officers.
Section 36	Disobedience to standing orders.
Section 38	Absence without leave.
Section 39	Failure to report or apprehend deserters or absentees.
Section 42	Malingering.
Section 43	Drunkenness.
Section 43A	Fighting, threatening words etc.
Section 44	Damage to, and loss of, public or service property etc.
Section 44A	Damage to, and loss of, Her Majesty's aircraft or aircraft material.

Provision	*Subject-matter*
Section 44B	Interference etc. with equipment, messages or signals.
Section 45	Misapplication and waste of public or service property.
Section 46	Offences relating to issues and decorations.
Section 47	Billeting offences.
Section 48	Offences in relation to requisitioning of vehicles.
Section 50	Inaccurate certification.
Section 51	Low flying.
Section 52	Annoyance by flying.
Section 54	Permitting escape, and unlawful release of prisoners.
Section 55	Resistance to arrest.
Section 56	Escape from confinement.
Section 57	Offences in relation to courts-martial.
Section 61	Making of false statements on enlistment.
Section 62	Making of false documents.
Section 63	Offences against civilian population.
Section 69	Conduct to prejudice of military discipline or air-force discipline.

3. Any offence under section 68 or 68A of the Army Act 1955 in relation to an offence under any of the provisions of that Act listed in paragraph 2.

4. Any offence under section 68 or 68A of the Air Force Act 1955 in relation to an offence under any of the provisions of that Act listed in paragraph 2.

Draft Rehabilitation of Offenders (Jersey) Law 200-

Provisions of the Naval Discipline Act 1957

5. Any offence under any of the provisions of the Naval Discipline Act 1957 listed in the first column of the following table -

Provision	*Subject-matter*
Section 6	Offences by or in relation to sentries, persons on watch, etc.
Section 7	Failure to attend for duty, neglect of duty, etc.
Section 11	Insubordinate behaviour.
Section 12	Disobedience to lawful commands.
Section 12A	Failure to provide a sample for drug testing.
Section 13	Fighting, threatening words etc.
Section 14	Obstruction of provost officers.
Section 14A	Disobedience to standing orders.
Section 17	Absence without leave etc.
Section 18	Failure to report deserters and absentees.
Section 21	Low flying.
Section 22	Annoyance by flying.
Section 25	Inaccurate certification.
Section 27	Malingering.
Section 28	Drunkenness.
Section 29	Damage to, and loss of, public or service property etc.
Section 29A	Damage to, and loss of, Her Majesty's aircraft or aircraft material.
Section 29B	Interference etc. with equipment, messages or signals.
Section 30	Misapplication and waste of public or service property.
Section 31	Offences relating to issues and decorations.
Section 32	Billeting offences.
Section 33	Offences in relation to the requisitioning of vehicles etc.

Provision	*Subject-matter*
Section 33A	Permitting escape, and unlawful release of prisoners.
Section 33B	Resistance to arrest.
Section 33C	Escape from confinement.
Section 34A	False statements on enemy.
Section 35	Falsification of documents.
Section 35A	Offences against civilian population.
Section 38	Offences in relation to courts-martial.
Section 39	Conduct to the prejudice of naval discipline.

6. Any offence under section 40 or 41 of the Naval Discipline Act 1957 in relation to an offence under any of the provisions of that Act listed in paragraph 5.

The States are asked to decide:–

IV.— Whether, after consideration of the Report dated the 28th February, 2001, of the States Advisory and Finance Committee, they are of opinion:–

1. That legislation shall be prepared on the lines of the Rehabilitation of Offenders (Jersey) Law, 200-, subject to appropriate modifications and adaptations.

2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

STATES ADVISORY AND FINANCE COMMITTEE

PAROCHIAL COLLECTION OF REFUSE

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

22nd March, 2001.

Sir,

PAROCHIAL COLLECTION OF REFUSE

1. The Advisory and Finance Committee has received representations from several Douzaines and also from representatives of the tourist and horticulture industries concerning perceived inequities in the levying of rates to defray the costs relating to the disposal of household refuse. For example horticultural premises generate no domestic waste yet, in three parishes, they contribute towards the cost of refuse disposal. In most parishes tourist premises also pay refuse rates; they generate considerable quantities of such waste, but most parishes have imposed a limitation on the number of bins or sacks of refuse which may be collected each week from individual premises.

2. The cost of collecting and disposing of refuse from dwelling houses is chargeable to the ratepayers of the several parishes of the Island under four different laws:

   (a) applicable in St. Peter Port, Vale and Castel:
   Loi relative à la Taxation Paroissiale, 1923

   Under article I(p) a tax is levied on all property in the parish (see paragraph 6 for exempted properties) for "L'Enlèvement de rebut de maisons", that is the removal of waste from houses.

   (b) applicable in St Sampson only:
   Loi relative au Rebut de Maisons dans certains Districts de la Paroisse de Saint Samson of 1909

   This Law requires the Constables and Douzaine to provide a refuse collection service. The rate is levied only on those premises which benefit from the refuse collection service – in practice every house in the parish.

   (c) applicable in St. Saviour, St. Pierre du Bois, Torteval, St. Martin and St. Andrew:
   The Parochial Collection of Refuse (Guernsey) Law, 1958

   Under this Law the Douzaine shall make such arrangements as may be necessary for the regular collection and disposal of refuse from dwelling houses and tenement houses in the Parish, in return for which a refuse rate is levied on those premises.

A dwelling house is defined as including a guest house, hotel, boarding house, hospital, school, nursing home and any institution for the occupation or care of young, old or infirm people and any

(i) dwelling place forming part of any building but not ordinarily accessible from any other part of that building;

(ii) self-contained flat;

(iii) such part of any premises, not wholly occupied as or being a dwelling house, as is occupied for dwelling purposes

A tenement house means a dwelling place, other than a self-contained flat, which is occupied by more than one family or which is wholly or partly let in lodgings.

(d) applicable in Forest only:
The Refuse (Forest) (Guernsey) Law, 1957

Terms and definitions are the same as the Parochial Collection of Refuse (Guernsey) Law, 1958 except that the definition of a dwelling house does not include a "boarding house, hospital, school, nursing home and any institution for the occupation or case of young, old or infirm people".

3. The chart in Appendix 1 summarises the categories of properties throughout the ten parishes on which rates for the collection and disposal of household refuse are levied.

4. The Law of 1958 can be applied to any Parish. Section 7(2) of the Law states "The States may from time to time by Ordinance provide that the provisions of this law shall have effect in any Parish subject to such modifications, if any, as may be prescribed if there has been previously received by the President of the States a copy, certified as true by the Dean of the Douzaine, of a resolution of a Parish Meeting of that Parish requesting that such provision should be made.".

5. There is a fundamental difference between, on the one hand, the 1923 Law (applied in St. Peter Port, Vale and Castel) and, on the other hand, the 1903, 1957 and 1958 Laws (applied in the other seven parishes).

6. The 1923 Law imposes a tax, the proceeds of which are applied to a multitude of different purposes. As with all taxation it is irrelevant whether or not a ratepayer benefits directly from all, some or none of the services provided. The only premises exempt from tax under the 1923 Law are:

(a) property occupied by a Department of H.M. Government;

(b) the Royal Court;

(c) the public prison;

(d) Arsenals occupied for military purposes;

(e) places devoted exclusively to religious worship;

(f) parochial schools;

(g) property owned and occupied by the States forming part of the harbours of St. Peter Port and St. Sampson.

7. The 1909, 1957 and 1958 Laws, however, are based more on the principle of payment for a service although it is, in fact, only the 1909 Law which is totally non-contentious.

8. All but three parishes have now moved away from defraying the cost of refuse disposal by means of taxation to a system under which the costs are borne by those who generate the waste. As outlined in the opening paragraph of this letter, there are, however, anomalies in that system which need to be addressed. The Committee strongly supports the "polluter pays" principle which forms part of the States' waste strategy and, therefore, considers that it is no longer appropriate for three parishes to continue to meet the cost of refuse disposal under the 1923 Parochial Taxation Law.

9. In the previous paragraph reference was made to anomalies which exist under the 1958 general Law and the 1957 Forest Law. These relate, in particular, to the treatment of hotels and guesthouses. Under those Laws hotels and guesthouses (and hospitals, schools etc. under the 1958 Law) are subject to Refuse Rate but, in practice, most parishes do not allow them to place more than a given number of bins or sacks for collection.

10. Some parishes have reached a working relationship with the hotel proprietors. The practice is that the parish, from its Refuse Rate receipts, makes a payment to the hotel, of a sum not exceeding the Refuse Rate paid, as part of the cost of disposing of the hotel's refuse. However, other Douzaines have either been unable or unwilling to enter into similar agreements with hotels situated in their parishes.

11. **The Committee considers that a uniform system should now be introduced throughout the Island so that each category of property is dealt with in the same way, regardless of the parish in which it is situated.**

12. It is proposed, therefore, that the 1958 Law should apply throughout the Island. Consequently article I(p) of the Loi relative à la Taxation Paroissiale of 1923, the Loi relative au Rebut de Maisons dans certains districts de la Paroisse de Saint Samson of 1909 and The Refuse (Forest) (Guernsey) Law, 1957 will be repealed. It is further proposed that the expression "dwelling house" should mean any premises classed as "domestic premises" or "self-catering tourist premises" in The Tax on Rateable Values (Guernsey) Ordinance, 1976, as amended.

13. Narrowing the definition as proposed in the previous paragraph will mean that only domestic premises will be subject to Refuse Rate and only domestic premises will be entitled to have their refuse collected. **All other premises, whether hotels, vineries, factories or whatever, will not pay refuse rates and will be responsible for disposing of refuse generated at those premises**. From a practical point of view this is, in effect, what already happens in most parishes as commercial premises have to make their own arrangements for disposing of refuse. However, they pay for a service which they do not receive. The proposed system will be very similar to that which is presently operated in St. Sampson which is the only parish where problems have not arisen with regard to commercial premises.

14. In the Committee's consultations with parishes it was suggested that the 1958 Law should be further simplified. The Law provides that parishes shall:

    (a) compile a register of dwelling and tenement houses subject to Refuse Rate;

    (b) publish notices in La Gazette Officielle giving notice of the period during which the register is available for inspection;

(c) make the register available for inspection for eight days during October;

(d) apply to the Royal Court during December for permission to levy the Refuse Rate during the following year.

15. If Refuse Rates are to be levied, as recommended above, only on domestic premises defined as such by the Cadastre, then the Committee sees no need for each parish to compile a separate register as the Tax on Rateable Values Register is public. It follows that if no register is compiled then the parishes will be spared the time and expense of updating and exhibiting it.

16. The Committee also sees no reason why parishes may seek the permission of the Royal Court to levy a Refuse Rate only in December and recommends that that requirement be relaxed.

17. Self-catering accommodation is presently graded as tourist premises for Cadastre purposes. It has been submitted to the Committee that such premises should be re-classified as domestic accommodation as there is little difference between the amount of refuse generated by tourists in the summer months and residents in the winter months. Whilst the Committee concurs with the view that self-catering premises should be subject to refuse rates it does not agree that the best way to achieve that is by re-classifying such premises as "domestic". The Committee proposes that self-catering premises continue to be classed as business premises for tax on rateable value purposes but that they be included in the definition of "dwelling houses" for refuse rate purposes.

18. Deferring the repeals set out in paragraph 12 will allow all parishes, but especially those parishes not presently subject to the 1958 Law (i.e. St. Peter Port, St. Sampson, Vale, Castel and Forest), to make appropriate practical changes which will be required as a result of the change in the Law. As it is proposed that the 1958 Law should apply throughout the Island the Committee recommends that the present requirement for a Resolution of a Parish meeting before it can be applied to a particular parish should be removed. Provision should be made for the 1958 Law to apply to every parish with effect from the commencement of each Parish's financial year occurring next after the registration in the Royal Court of the new legislation.

19. The Douzaines have been consulted and details of their responses are appended to this policy letter (see Appendix 2).

20. The Committee has also sought the views of the Guernsey Chamber of Commerce, the Guernsey Growers' Association and the Guernsey Hotel and Tourism Association and the responses are also appended to this policy letter (see Appendix 3).

21. The Advisory and Finance Committee recommends the States to agree that:

1. The Parochial Collection of Refuse (Guernsey) Law, 1958, as amended, be extended or replaced so that the system currently applicable under the Law applies throughout the Island subject to the modifications that:

(a) the expression "dwelling house" should be defined as including "self-catering tourist premises" in The Tax on Rateable Values (Guernsey) Ordinance, 1976, as amended;

(b) the requirements for the compilation, revision and exhibition of a Register of dwellings and tenement houses should be repealed;

(c) applications for permission to levy a Refuse Rate may be made at any time of the year and in respect of financial years which do not coincide with the calendar year;

(d) the system will apply to all Parishes from the commencement of each Parish's financial year occurring next after the registration in the Royal Court of the amendment to, or replacement of, the 1958 Law;

(e) the requirement for a Parish Meeting to resolve that the system be applied to that Parish should be removed;

2. Article I(p) of the Loi relative à la Taxation Paroissiale of 1923, the Loi relative au Rebut de Maisons dans certain districts de la Paroisse de Saint Samson of 1909 and The Refuse (Forest) (Guernsey) Law, 1957 be repealed;

3. The Tax on Rateable Values (Guernsey) Ordinance, 1976, as amended, be further amended to separate "self-catering tourist premises" from "other tourist accommodation".

22. I have the honour to request that you will be good enough to lay this matter before the States with appropriate propositions, including one directing the preparation of the necessary legislation.

I am, Sir,

Your obedient Servant,

L. C. MORGAN,

President,

States Advisory and Finance Committee.

APPENDIX 1

Comparison of Extant Legislation

	St. Sampson	Forest	St. Saviour St. Pierre du Bois Torteval St. Martin St. Andrew	St. Peter Port Vale Castel
Dwellings, tenement houses and flats, etc.	YES	YES	YES	YES
Hotels and Guesthouses	NO	YES	YES	YES
Boarding houses, hospitals, schools, nursing homes, old people's homes, children's homes	NO	NO	YES	YES
All other property including greenhouses commercial premises, land etc.	NO	NO	NO	YES

APPENDIX 2

The Douzaines responded in the following terms:

St. Peter Port

(a) "The Douzaine has always accepted the inclusion of funding for the collection of household refuse as a tax and must agree that it is not totally fair, as are a number of other items included in parochial or other tax systems i.e. Town Church, Education and Street lighting. The proposals, in the policy letter even though beneficial to some sections of the community will still not be fair but a universal approach to parochial taxation must have merit.

(b) The repeal of the democratic right of ratepayers to object to any changes should not be a priority condition of the policy letter. The additional cost to occupiers of "Dwellings" who would be charged a separate refuse rate and effectively be charged nearly double their existing parochial rates would be a deciding factor at the Parish meeting.

(c) A commercial rate may be considered as an option, whereby some contribution is made towards the parish expenses, particularly as the Parish Contractor collects kitchen refuse from a large number of businesses. Furthermore, inevitably a considerable amount of business refuse is put out at collection points together with household refuse. The collection and tipping of this business refuse will become a burden on those ratepayers who are paying a separate refuse rate.

(d) Parishes are currently charged £43.00 per tonne, by the Board of Administration, for the disposal of refuse as a tipping charge. There must be some form of incentive to encourage recycling and the separation of refuse at source. If there is no incentive to recycle, the volume of rubbish will increase, the refuse contractor will have to provide extra vehicles, the tipping charges to the parish will increase because of the extra weight in rubbish, the rates will have to be increased to cover the extra cost and the life of the tip will be shortened. On those grounds alone the proposals from the Advisory and Finance Committee are self-defeating.

(e) We are concerned with an island wide problem and it is essential that the Board of Administration should take the lead in educating the public in the segregation of refuse and to demonstrate in practical ways whereby material can be recycled and deposited in appropriate locations for collection.

This appears to be successful in the case of bottles, cans, paper etc, but this could be extended to other material, particularly plastic, which occupies an inordinate amount of space in the bin.

(f) The Board of Administration has provided an adequate facility for the disposal of garden refuse, but unfortunately householders persist in including such material for the domestic collection. Consideration of suitable penalties might help to concentrate the minds of persistent offenders."

St. Sampson

"The Constables and Douzaine of St. Sampson note with some satisfaction that our 1909 law is the only one to be operating without problems.

However we have identified some small administrative advantages in the new scheme and therefore support the proposals."

Vale

"The Vale Douzaine unanimously oppose any change in the method of collection of rates for rubbish disposal until such time as the ratepayers have been consulted on this matter."

Castel

"The Douzaine considered the draft policy letter. It was noted that the letter encompassed all matters previously referred to you and the Douzaine agreed to support its adoption.

There is one practical aspect of administration that should be looked into. The various parishes receive rateable value information from the Cadastre, which is utilised for determining rates. For ease of parochial administration we ask that the two categories of tourist accommodation be separately lettered.

Currently domestic premises are categorised in 'A-H' under the Tax on Rateable Value Ordinance. May we respectfully suggest that the 'self-catering tourist accommodation' be categorised within 'I' and that a new category (possibly T) be established for 'all tourist accommodation other than self-catering tourist accommodation'.

The placement of all domestic premises (for the purpose of Refuse Rate) within categories A-I inclusive, would make them readily identifiable from Cadastre records and streamline parochial administration."

St. Saviour

No reply received.

St. Pierre du Bois

"The Douzaine has considered the policy letter concerning the Parochial Collection of Refuse, and has raised no objection to the proposals, although it was noted that we have been able to operate very successfully under the 1958 Law for many years in this parish."

Torteval

"The Douzaine discussed the matter and are fully in support of your proposals."

Forest

"At a Douzaine meeting held on Tuesday 30 May 2000, it was accepted that although the Forest Parish has its own refuse law, The Refuse (Forest) (Guernsey) Law, 1957 giving different categories of properties having to pay refuse rates, they would accept the proposals put forward by the Advisory and Finance working party, whatever they may be."

St. Martin

"The Douzaine agreed to these proposals at their recent meeting feeling that they were a fair and equable way of dealing with what has been a long and difficult problem."

St. Andrew

"As the Douzaine of St Andrew already fall under the 'Parochial Collection of Refuse (Guernsey) Law, 1958', we feel that we have no further comments to make."

Of the nine parishes which replied, seven parishes either support or raise no objection to the proposals. Only the St. Peter Port and Vale Douzaines raise any objection.

With regard to the comments raised by the St. Peter Port Douzaine, points (d), (e) and (f) are beyond the scope of this report. Insofar as the collection of business refuse is concerned, it will be for the individual businesses to make private arrangements with refuse collectors, as they do in other parishes.

APPENDIX 3

The undermentioned organizations responded in the following terms:

Chamber of Commerce

"The Chamber of Commerce has long considered the fact that different systems of taxation for the purpose of paying for refuse collection apply in different parishes, and that, in certain parishes, taxes in this connection are payable in respect of premises where no (or a limited) collection of refuse is made to be unfair and inappropriate. We welcome your proposals to amend the Law to provide for the same system to apply throughout the Island and for no refuse rate to be payable in respect of premises where no collection is made."

Guernsey Growers' Association

"As you are aware, the Guernsey Growers' Association has been pressing for many years for the present system, which we consider to be unjust and outdated, to be amended. The subsequent introduction of a Law for a uniform system throughout the Island will, at last, prevent growers from being penalised for an unavailable service.

Your proposals, therefore, to amend the Law to provide for the same system to be applied throughout the Island are welcomed by my Association."

Guernsey Hotel and Tourism Association

"This industry has, for some time, believed the present system of charging for a refuse collection system that in most parishes is unavailable is, at the every least, extremely unfair.

We fully support your proposal to change the law so that only those businesses which can sensibly use the parish collections, pay for the service. The remainder will only pay for their own, privately arranged collection service."

The States are asked to decide:–

V.— Whether, after consideration of the Report dated the 22nd March, 2001, of the States Advisory and Finance Committee, they are of opinion:–

1. That the Parochial Collection of Refuse (Guernsey) Law, 1958, as amended, be extended or replaced so that the system currently applicable under that Law applies throughout the Island subject to the modifications that:

   (a) the expression "dwelling house" shall be defined as including "self-catering tourist premises" in the Tax on Rateable Values (Guernsey) Ordinance, 1976, as amended;

   (b) the requirements for the compilation, revision and exhibition of a Register of dwellings and tenement houses shall be repealed;

   (c) applications for permission to levy a Refuse Rate may be made at any time of the year and in respect of financial years which do not coincide with the calendar year;

   (d) the system will apply to all Parishes from the commencement of each Parish's financial year occurring next after the registration in the Royal Court of the amendment to, or replacement of, the 1958 Law;

   (e) the requirement for a Parish Meeting to resolve that the system be applied to that Parish shall be removed.

2. That Article I(p) of the Loi relative à la Taxation Paroissiale of 1923, the Loi relative au Rebut de Maisons dans certain districts de la Paroisse de Saint Samson of 1909 and the Refuse (Forest) (Guernsey) Law, 1957, shall be repealed.

3. That the Tax on Rateable Values (Guernsey) Ordinance, 1976, as amended, shall be further amended to separate "self-catering tourist premises" from "other tourist accommodation".

4. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

STATES BOARD OF ADMINISTRATION

LE FOULON VALE CREMATORIUM AND CHAPEL – ALTERATIONS AND EXTENSION

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

20th March, 2001.

Sir,

LE FOULON VALE CREMATORIUM AND CHAPEL – ALTERATIONS AND EXTENSION

Introduction

The present crematorium consists of a Victorian gothic chapel with a 1929 crematory extension built in the same style as the original. The architecture and setting combine to form a strong sense of character and occasion that would be difficult to replicate in a modern building. The facility is used by people of any faith or none and an average of around six persons per week are cremated at present. This figure is likely to increase given improved facilities and considering trends elsewhere.

Existing Facilities

The existing facilities are perceived to be poor and this has discouraged use in some instances, with families choosing burial instead. In particular, there have been complaints with regard to the limited seating capacity of the chapel. Existing access and parking is poor, particularly for the elderly or infirm. There is a lack of toilet facilities, no adequate covered waiting areas and no suitable area for floral tributes. Whilst this is a very sensitive and personal matter, the Board would wish to encourage people to choose cremation over burial wherever possible, given the very limited areas available within local cemeteries. Improved chapel and crematorium facilities should assist in this regard.

Environmental Considerations

In addition to the above-mentioned inadequacies, the existing cremator no longer complies with current legislation - Process Guidance Note PG5/2(95) - with regard to flue emissions. New legislation was introduced in the Environmental Protection Act 1990 requiring all British Crematoria to renew or replace their cremator equipment by 1 April 1998 with the result that the continued operation of the existing cremator is no longer acceptable.

Investigations have confirmed that the existing cremator cannot be upgraded to meet the current legislation. However, if the Board's proposals as contained within this report are approved, the new cremator to be installed will meet modern requirements in terms of emissions. Having consulted with Environmental Health Services, the Board is satisfied that the cremator as proposed will have a reasonable life expectancy if built to the current high standards. Any possible future reviews of standards will be expected to have a considerable lead-time for any changes to be implemented.

Alternative Locations

It should be noted that the provision of a new crematorium elsewhere within the cemetery has been investigated and although this would have a comparable cost to the Board's proposals it has been discounted. The only suitable locations are at the eastern end of the site or adjacent to the Sexton's office. Both areas have domestic dwellings adjoining the site boundary and location here would be likely to meet with resistance from neighbours. Furthermore, the existing chapel structure would still need to be maintained. Such a move would reduce further the already limited area in the cemetery for burials.

The provision of a new crematorium at an entirely new site would cost substantially more than the Board's proposals, and would cause many difficulties in terms of reaction from neighbours, planning issues and so on. Above all, it has been seen to be most sensible to develop the existing facilities alongside the traditional Chapel on the site, which can be maintained by Foulon Cemetery staff.

Consultations

The Board has taken into account the views of the public during the process of preparing proposals in respect of this scheme. Furthermore, representatives from the St. Peter Port Douzaine, local clergy and undertakers have attended meetings, together with officers from the Department of Architecture, to consider the proposed scheme and practical arrangements both during and after the contract.

The Island Development Committee in consultation with the States Heritage Committee has commented very favourably upon the Board's proposals. The Island Development Committee considered that the detailed drawings represent a successful scheme to refurbish the crematorium and has commended the attention to detail demonstrated in the plans submitted.

Summary of Proposals

The proposals include:

- new extension to house the cremator
- the installation of a new cremator to meet modern requirements
- additional parking for up to six cars adjacent to the chapel especially for the elderly and infirm and up to fifteen cars in a nose to tail formation on the perimeter road
- conversion of existing furnace room to extend chapel area
- reconstructed columbarium alcoves
- a room containing a Book of Remembrance
- covered waiting areas including a covered way for floral tributes
- renovation of the existing building
- provision of toilet facilities

Importantly, the proposed design will increase seating capacity in the chapel from 50 to 100 persons.

The minimum expected life of the main structure of the extension is 60 years. The cremator is guaranteed for 15 years based on a full annual maintenance contract.

Plans showing the existing and proposed layouts are appended to this report. Furthermore, full drawings will be lodged at the Greffe for the information of States Members.

Continuity of Operations

Continuity of operations has been an important criterion within the design brief and it is envisaged that there might be periods not exceeding one week at any one time when cremations would not be able to take place locally, within an estimated contract period of twelve months. Special access arrangements will be agreed during the period of the contract, with ongoing liaison being necessary between the Board and local clergy and undertakers. While there will be no services in the Chapel during the contract, these will be able to take place in local churches with the cremation itself still taking place at the crematorium.

Tenders

Five contractors were invited to submit tenders for this project and the following tenders were received (one Company failed to submit a tender):

R G Falla Ltd	£997,387.91
J W Rihoy & Son Ltd	£998,612.00
W A Mosgrove Ltd	£948,809.61
MGF Ltd	£896,139.01

The Board recommends acceptance of the lowest tender submitted by MGF Ltd in the revised sum of £880,139.01 which sum includes the cost of the new cremator and associated equipment.

To the above figure the following allowances should be added:

1)	Site investigation costs	£300.00
2)	Possible increased costs during the contract period	£31,000.00
3)	Consultant's fees	£9,600.00
4)	Moving one grave and temporary storage of ashes from columbarium	£2,000.00
5)	Furniture and equipment	£5,000.00
		£47,900.00

The full cost of the project will not therefore exceed £928,039.01 (£880,139.01 + £47,900.00)

By way of comparison, the cost of a new build scheme with cremator, but without site purchase costs, consultant's fees, furniture and equipment etc., has been estimated to be in the order of £985,000.00

Charges and Fees

Charges and fees in respect of the Foulon Cemetery, chapel and crematorium are reviewed on an annual basis. The Board has agreed that special consideration should be given to future revisions in the light of planned improvements. However, whilst a proper review will be undertaken, the Board does not anticipate that it can reasonably expect the capital expenditure in respect of this scheme to be fully recoverable from charges and fees. Furthermore, the Board must take into account the need to encourage a greater use of the crematorium facilities in future.

Conclusion

The existing cremator does not comply with modern environmental requirements in terms of flue emissions. Furthermore, the Chapel has insufficient seating capacity and the existing facilities need to be upgraded, with additional parking, so as to provide for the reasonable needs of those persons attending funerals.

The Board considers that the proposals contained within this report will significantly improve facilities in a sensitive manner and within a very constrained site. The Board is confident that the scheme, when finished, will meet with a very positive public response.

Recommendations

The Board recommends the States to:

1. authorise the extension/refurbishment of the chapel and the replacement of the cremator as described in this report;

2. authorise the Board to accept the tender submitted by MGF Ltd in the revised sum of £880,139.01; and

3. vote the States Board of Administration a credit of £928,039.01 to cover the total costs of the project, which sum is to be charged to that Board's capital allocation;

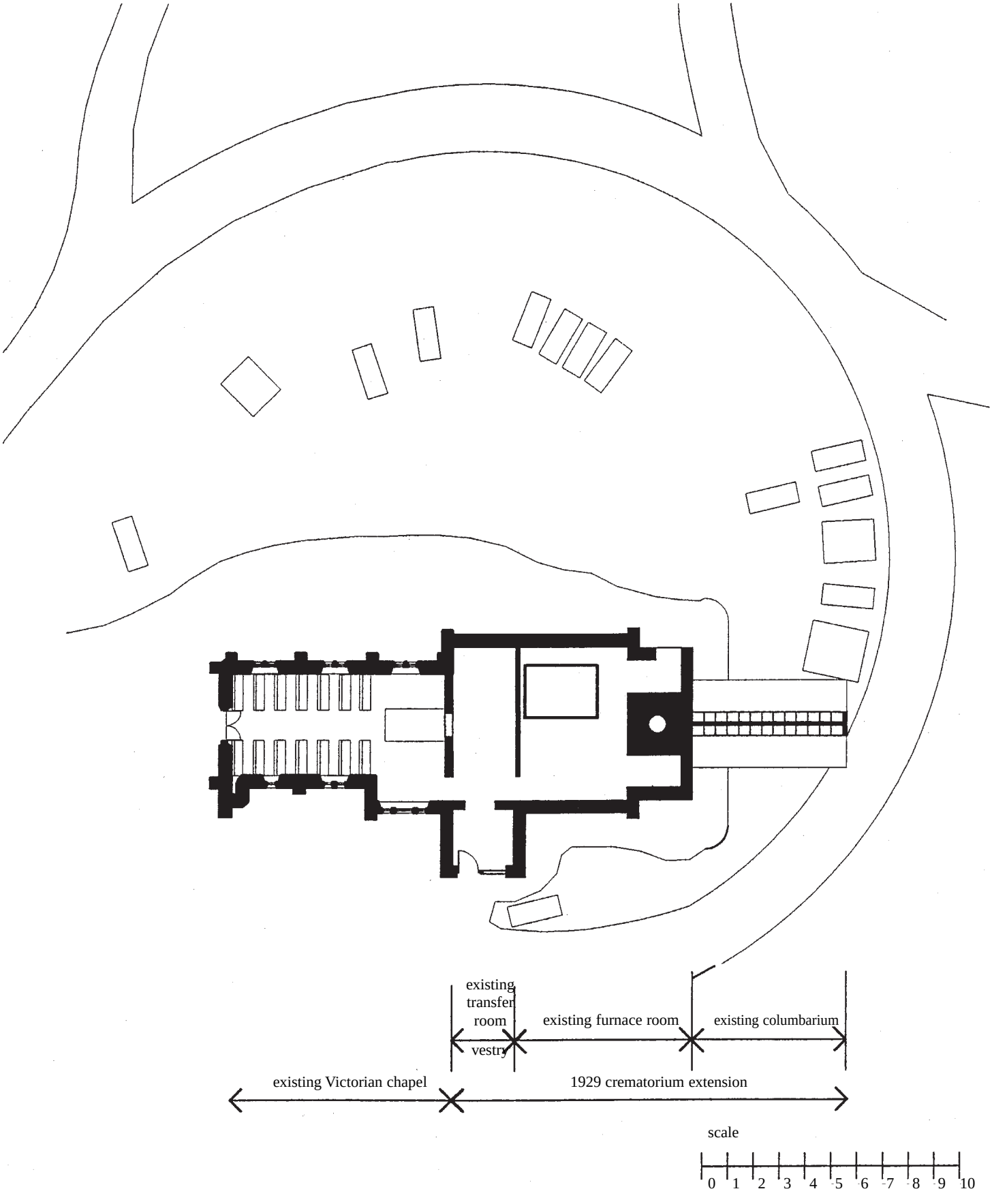
I have the honour to request that you will be good enough to lay this matter before the States with appropriate propositions.

I am, Sir,
Your obedient Servant,
R. C. BERRY,
President,
States Board of Administration.

APPENDICES

1. **EXISTING PLAN**
2. **PROPOSED PLAN**

Le Foulon Crematorium Existing Plan



Le Foulon Crematorium Proposed Plan

1 Main Entrance; mourners and cortege arrival

2 Narthex / lobby

3 Organist

4 Seating up to 65 mourners

5 flexible seat arrangement for chief mourners or for small services up to 35 persons

6 Vestry

7 Catafalque

8 Transfer room

9 Cremator

10 Crematory

11 Toilets for public use

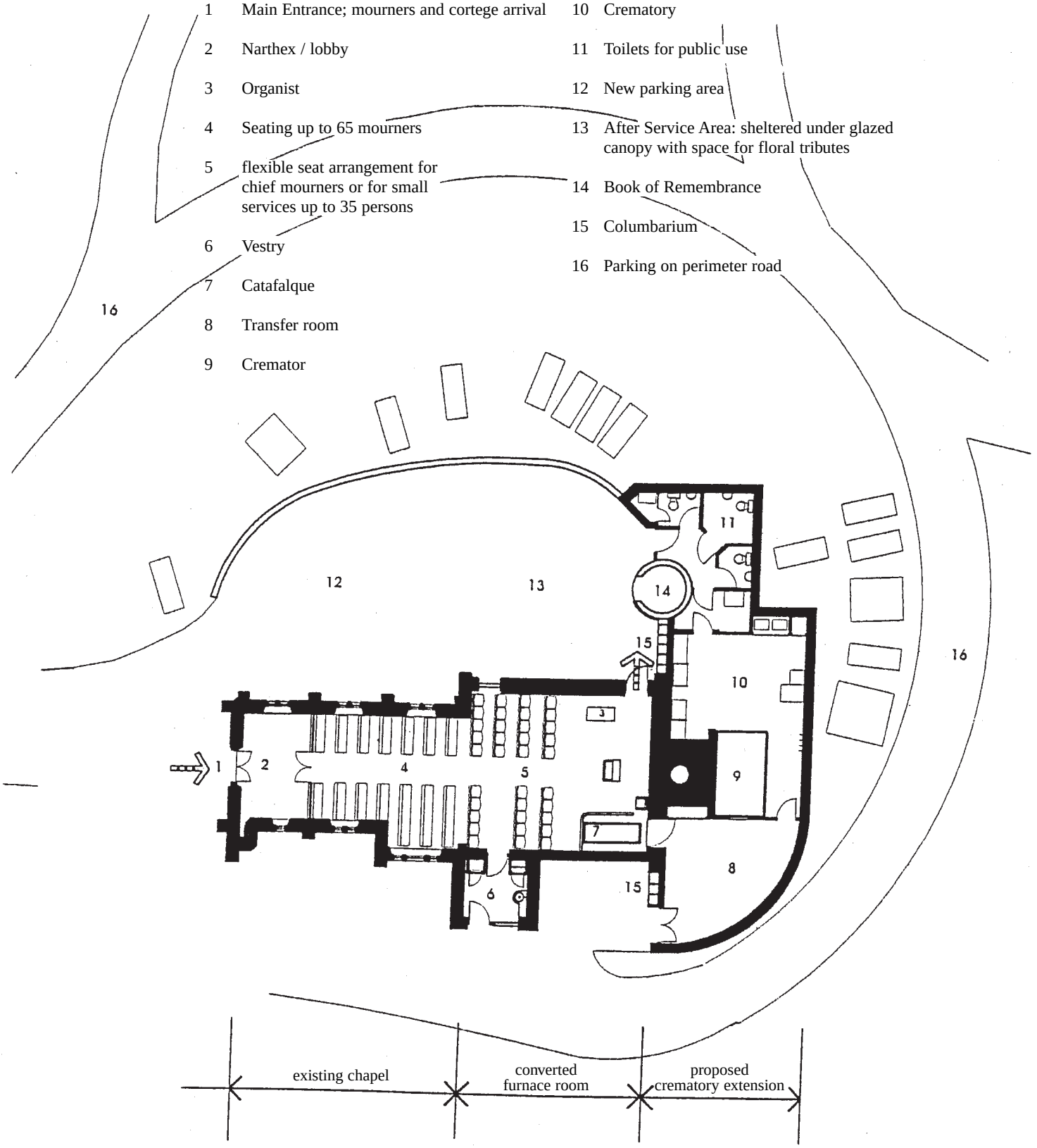
12 New parking area

13 After Service Area: sheltered under glazed canopy with space for floral tributes

14 Book of Remembrance

15 Columbarium

16 Parking on perimeter road



[N.B. The States Advisory and Finance Committee supports the proposals.]

The States are asked to decide:–

VI.— Whether, after consideration of the Report dated the 20th March, 2001, of the States Board of Administration, they are of opinion:–

1. To authorise the extension/refurbishment of Le Foulon Vale Chapel and the replacement of the cremator as described in that Report at a total cost, inclusive of the following sums:

   £300.00 for site investigation costs;

   £31,000.00 for possible increased costs during the contract period;

   £9,600.00 for Consultant's fees;

   £2,000.00 for moving one grave and temporary storage of ashes from columbarium; and

   £5,000.00 for furniture and equipment;

   not exceeding £928,039.01.

2. To authorise the States Board of Administration to accept the tender in the revised sum of £880,139.01 submitted by MGF Limited for the carrying out of the above works.

3. To vote the States Board of Administration a credit of £928,039.01 to cover the cost of the above works, which sum shall be taken from that Board's allocation for capital expenditure.

STATES HOUSING AUTHORITY

DEVELOPMENT OF SHELTERED HOUSING AT ROSAIRE AVENUE

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

21st March, 2001.

Sir,

Development of Sheltered Housing at Rosaire Avenue

Introduction

I have the honour to present a report on the above subject for consideration by the States.

The primary purpose of this report is to advise the States of the funding issues that have arisen as a result of the Authority seeking expressions of interest to develop sheltered housing on the site of the former Girls' Grammar School at Rosaire Avenue.

Before such development can proceed on this site it is necessary to resolve these funding issues, which are fundamental to the objective enshrined in the Strategic and Corporate Plan of providing "affordable" housing to meet the needs of local people who, for financial reasons, are unable to compete for housing in the market place.

The Strategic and Corporate Plan states that the operation of the housing market is not responding adequately to meet these needs and observes that "the solution to these issues does not lie solely with land use planning but will require innovative initiatives by the public and private sectors".

In addition, Strategic Policy 8 states that:

> "A wide mix of housing which reflects housing needs should be encouraged, including homes for families and small households; housing for elderly households and other households with special needs; and provision for people requiring community care."

The preamble to that Strategic Policy states as follows:

> "6.1.17 Housing quality and the ability to gain access to housing are key elements of meeting the strategic objectives and housing needs of people. The importance of housing which meets the needs of all sectors of society in contributing to the overall wellbeing and sustainable development of balanced communities is recognised. Two aspects are particularly important – affordability and the ability to accommodate a range of housing needs for all members of the community, including elderly people and those with disabilities.

6.1.18 The second aspect is particularly important to meet the existing and changing needs of all members of the community, including those of the ageing population. It is already known, for example, that there is under-provision of sheltered housing for the elderly. Measures have already been taken to facilitate the development of such housing, but further research and analysis will be required to determine the extent of such provision and to devise suitable mechanisms for ensuring that sheltered housing is accessible to those who need it. To ensure such housing is capable of meeting the changing needs of households the quality of design is crucial."

In accordance with the strategic policies of the States quoted above, this report puts forward an innovative solution in respect of the provision of "affordable" sheltered housing. This has the potential to be applied not just to the Rosaire Avenue site, but to any other site in the States' ownership, either now or in the future, which has been identified for sheltered housing to meet housing targets based on health and/or social need.

Specifically, the Authority recommends that to ensure the provision of "affordable" sheltered housing, particularly for rental, for older people and/or people with a disability who have a health and/or social need, the States should provide financial assistance to meet a proportion of the development costs, including, *where appropriate*, the provision of land "free" of charge. The Authority is firmly of the view that without such financial assistance it will not be possible for a private sector developer to provide a sufficient number of sheltered units for those on modest incomes to purchase or rent.

However, in order for the States to understand how the Authority has reached this conclusion, it is necessary to consider all of the issues surrounding the provision and funding of sheltered housing in Guernsey. The Authority, therefore, first sets out the strategic policies that need to be adopted to ensure that the recognised shortfall in sheltered housing is met; it then goes on to show how the Rosaire Avenue proposal fits within this policy context.

Finally, the Authority draws attention to the problems faced by Open Market residents in securing sheltered housing in Guernsey and informs the States of the policy which the Authority has agreed to adopt to address these problems.

Background

The 1998 and 1999 Strategic and Corporate Plans contained the following undertaking:

> "The States also recognised that there is under-provision of Sheltered Housing for the elderly in the Island and that to facilitate such accommodation it should be recognised as a specific Use Class. The Island Development Committee will liaise with the Board of Health to identify the site requirements and the extent of provision which should be made for Sheltered Housing in future reviews of the Urban and Rural Area Plans".

As a consequence of that direction, the Island Development Committee liaised at staff level with the Board of Health and with the Housing Authority under the auspices of a Sheltered Housing Working Group convened by the Advisory and Finance Committee, in recognition that a corporate approach was the most helpful way to address the issues surrounding sheltered housing, which go beyond land use planning considerations alone.

In June 2000, the Island Development Committee reported to the States (Billet D'État XIV) that whilst the land use implications of the provision of sheltered housing could be tackled through the forthcoming review of the Urban Area Plan and Rural Area Plans 1 and 2, it was in a position to lay its proposals for a new Sheltered Housing Use Class before the States. In accordance with those proposals, the States agreed that a new Sheltered Housing Use Class be introduced to enable persons who are either 55 years or over and/or have a health or social need for sheltered housing to reside in a dwelling specially suited to their needs, including on-site or on-call assistance or a nearby warden[1].

However, the Island Development Committee stated that the new Use Class was only the *first step* in what needed to be a corporate approach to facilitate the provision and retention of more sheltered housing on the Island. Nevertheless, it would enable the Island Development Committee to address the special characteristics of sheltered housing in a positive way. (For example, developers may be able to justify development at higher densities and with more limited on-site parking provision for sheltered housing so long as the overall quality of the development merits this flexibility. In addition, the Use Class will also enable the Island Development Committee to prevent accommodation changing, without consent, from sheltered to other forms of housing. Without this safeguard, any special dispensations for sheltered housing might be abused, allowing high density/low parking accommodation to be over-occupied to the detriment of the residents themselves and the wider neighbourhood.)

This present report, therefore, builds upon the introduction of a specific Use Class for sheltered housing to address those issues not covered by land use planning.

The Sheltered Housing Concept

As indicated by the definition quoted above, "sheltered housing" represents a type of semi-independent living which ranges between living in one's own home and long-term care in a residential home.

The idea of sheltered housing was first taken up by UK local authorities in the 1960s and 1970s. The initial emphasis was upon grouped dwellings, often bungalows, although this developed into flats and more institutional building styles.

The concept of sheltered housing has been promoted on the strength of the following perceived advantages:

- small/compact purpose-built retirement homes make efficient use of land and building materials;
- persons moving into sheltered housing usually vacate properties that have become too large for their requirements, thereby freeing accommodation for families to occupy;

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1 "**Residential Use Class 4A:**

Use of one of a group of dwellings for the time being recognised by the Island Development Committee as affording facilities specially suited to the needs of older [or disabled] people, including [on-site or on-call assistance] [the on-site or on-call assistance of a resident or nearby warden]

(a) as a permanent residence for a person living alone who, or
(b) as a permanent residence for two persons living together of whom at least one

[either] has attained an age of 55 years [or requires access to those facilities because of his or her disability]"

- purpose-built sheltered housing promotes and permits a better quality of life for older persons, taking away the worry of maintaining a property, with the consequence that admission into residential or nursing home care may be delayed or avoided;
- sheltered housing is less expensive than long-term residential care and promotes a better quality of life with the emphasis on independence and privacy;
- older people entering sheltered housing may release capital tied up in their properties, providing them with financial resources to see them through their retirement years and, as a result, are less likely to call upon public funds;
- sheltered housing usually provides the opportunity for older people to remain in the same locality and amongst existing networks of family and friends.

Existing Sheltered Housing Provision

There are currently 177 units of sheltered accommodation in Guernsey. 29 of these are in the public sector (Housing Authority) and 148 in the private sector.

14 of the sheltered housing units are available to persons without residential qualifications under licences issued by the Housing Authority to long-term "Open Market" residents; the remaining 163 are Local Market. Table 1 shows the current public and private sector provision.

Table 1 – Sheltered Housing Provision (October 1999)

Name of Accommodation	**Number of Units**	
	Local Market	**Occupied Under Licence**
States Housing Authority		
Courtil Jacques, Longue Rue, St Martin's	12	–
Maison le Clement, Vale	17	–
Private Sector		
La Chaumiere, Rue Piette, Castel	28	–
Ker Maria, Route Carre, St Sampson's	20	–
Frairies Court, St Andrews	15	–
Les Blanc Bois, Rue Cohu, Castel	28	11
Rivermeade Court, New Road, St Sampson's	10	3
Victoria Homes, Park Lane, St Peter Port	33	–
Total	**163**	**14**
	177	

Notes

1. Phase 1 of the Courtil Jacques re-development resulted in 12 single person flatlets with separate bathroom and kitchen with a lounge that has a sleeping alcove. Phase 1 was occupied by the tenants of the original bedsitting units.

   Phase 2 of the re-development, approved by the States in July 2000 (Billet D'État XVIII), is the conversion of the 16 original bedsitting units into 8 self-contained flats, capable of accommodating 1 or 2 persons. This will increase the number of public sector units to 37.

2. The definition of sheltered housing in the new Use Class excludes the Housing Authority's developments at Rodley Park and Pre de Quertier, which are purpose-built one-bedroomed houses and bungalows for older persons. There is a warden who has specific responsibilities for the residents, but these responsibilities are not currently so extensive as to classify the development as sheltered housing.

Assessment of Sheltered Housing Requirements

In January 1999 staff level representatives from the Advisory and Finance Committee, Housing Authority, Board of Health and the Island Development Committee commenced a series of meetings to review the progress that had been made with regard to identifying sites for sheltered housing and to consider an action plan for future progress.

The Housing Authority agreed, in conjunction with the Board of Health, to identify those persons who had a health and/or social "need" for sheltered housing, as opposed to those persons who were actively seeking sheltered housing, but who had no immediate health and/or social need requiring that form of accommodation.

The Authority also agreed to investigate the economic factors hindering the development of sheltered housing in Guernsey.

"Need" versus "demand"

A number of people currently residing in sheltered housing developments may have no immediate health or social need for such accommodation, but have chosen to move for other reasons i.e. they are forward planners. Moving to private sheltered housing developments early is a way of releasing equity tied up in property, avoiding ongoing maintenance costs, and provides the opportunity to invest capital to supplement retirement income (although often couples/individuals move prior to retirement).

Of itself such forward planning is not necessarily negative: it releases larger properties for occupation by younger families and may assist in postponing the need for institutional care in later life. However, in determining the requirement for sheltered housing, Housing Authority and Board of Health staff have consistently been of the view that it may be necessary on grounds of land availability to decide whether sheltered housing developments should be reserved to house only people with identified health and/or social needs. The policies outlined in this report stop short of such a recommendation, but instead recommend that in respect of the proposed sheltered housing development at Rosaire Avenue, health and/or social "need" should be a prerequisite for accommodation.[2]

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2 The actual criteria for residence will be a matter for the developer/operator to determine in conjunction with the Housing Authority and the Board of Health.

Future Requirements for Sheltered Housing

Investigations carried out between 1996 and 1998 by the inter-departmental Working Party investigating the Funding of Long-Term Care and Associated Services identified a significant shortfall in sheltered units of accommodation and estimated that, irrespective of "need" or "demand" factors, an additional 372 units would have to be provided by the year 2016 to meet the projected requirements of the Island.

This projection was, however, somewhat crude, as it was based upon the application of UK norms of provision to the Guernsey population. Further work was, therefore, undertaken to try and identify the true requirement with greater certainty.

Assessing the Requirement

In 1999, the Board of Health conducted preliminary estimates of the health and/or social "need" for sheltered housing amongst a representative sample of those people then living in public and private sector residential homes. The results of these investigations showed that 21% of older people were currently residing in the "wrong" types of accommodation, i.e. they were in long-term residential care when sheltered housing could adequately have met their needs had it been available and if they were provided with a range of support services – from simple call bell provision and meals, to greater assistance such as help with bathing, help with medication, or the provision of a Home Help.

Extrapolated across the whole population of residents in residential homes, this suggested that there was a requirement for an additional 76 units of sheltered accommodation on the basis of health and or social "need". With the introduction of a comprehensive pre-admission needs assessment procedure in conjunction with the proposed long-term care insurance scheme, fewer inappropriate admissions to long-term residential care should occur. However, this will to a large extent depend upon how quickly additional units of sheltered housing can be provided.

The provision of additional sheltered housing will also contribute to extending choice in the range of accommodation available to older people and/or people with a disability.

Meeting the Requirement: Sites for Sheltered Housing Development

In accordance with the requirement of the 1998 and 1999 Strategic and Corporate Plans, the Island Development Committee has considered the availability of sites suitable for sheltered housing within the current Detailed Development Plans.

Typically, sheltered housing sites have to be capable of accommodating at least 20, but preferably 25 units, in order to make it viable to employ a resident warden. The siting of such housing on flat ground, close to shops, other amenities and public transport links, is also important. This significantly restricts the number of suitable sites for sheltered housing development in Guernsey and, therefore, as with the Rosaire Avenue site, some compromises may need to made to effect provision .

Nevertheless, based on the criteria set out above, the IDC identified a number of sites suitable for sheltered housing development. It concluded that if 30 per cent of the units that could be built on the sites identified were actually provided then, taken together with known "permissions in principle", there was development potential for 120-150 units over the next 3-5 years.

However, the IDC's search for sites suitable for sheltered housing development took no account of whether the developments should be provided by the private or public sector, whether they should be available for rent/lease, or for purchase by those of modest means i.e. "affordable", or whether the cost of units should be subject to normal market forces. Furthermore, it did not "ring-fence" these sites for sheltered housing development as this is something that is not within the powers of the Island Development Committee, and thus suitable sites are likely to face competition from other land uses.[3]

Thus, whether or not land is actually developed for sheltered housing depends upon the willingness of private sector providers to come forward with proposals, admittedly now assisted by the provision of a specific Sheltered Housing Use Class. **However, for the reasons set out below, the Authority has concluded that the actual provision of sheltered housing – especially "affordable" sheltered housing whether for purchase or more particularly for rent by those of modest means – cannot be guaranteed if left to the private sector and the way of ensuring provision is for the States to promote sheltered housing on its own land and/or to provide other incentives i.e. financial assistance.**

Funding Issues

As mentioned above, the establishment of a new Use Class will not, in itself, ensure that the total requirement for sheltered housing units is met.

Not all people who will purchase a sheltered unit will necessarily have a health and/or social need to do so; nor will all those people who have a "need" be able to afford to purchase. The Authority has, therefore, considered whether some form of "market interference" is required to ensure that land is earmarked for sheltered housing development for rental, in addition to that which may be developed by the private sector with units for purchase.

This raised a number of financial issues, namely:

(i) who would fund the acquisition of land for sheltered housing development?;

(ii) how would the capital costs of development (or redevelopment of existing buildings) be funded?;

(iii) how would the operating costs of developments be funded?;

(iv) what assistance would be available to help residents meet rents or service charges?

It was assumed that once a specific Use Class was in place there would be no financial impediment to the development of sheltered housing in Guernsey.

To a degree this remains the case, but following the expressions of interest exercise carried out in respect of Rosaire Avenue, the Authority has had to reconsider its opinion on this matter, at least insofar as the development of "affordable" sheltered housing is concerned.

It is, therefore, appropriate at this point to outline the issues that have arisen in respect of a sheltered housing development at Rosaire Avenue.

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[3] The Island Development Committee seeks to encourage and promote sheltered housing sites through mechanisms such as Mixed Use Redevelopment Areas (MURAs), Housing Target Areas (HTAs) and associated Development Briefs.

Rosaire Avenue

The Rosaire Avenue site covers approximately 1.97 acres (0.8 hectares/4.5 vergees). A plan of the site is appended to this report.

Apart from the former Girls' Grammar School buildings temporarily leased by various parties – the site is currently occupied by the States' Analyst's Laboratory, but this facility is due to be relocated to Burnt Lane within the next 12-18 months.[4]

In 1988 (Billet D'État III), the States decided to make this site available for housing development (recently confirmed by the States in rejecting an amendment to the 2000 Policy and Resource Planning Report). However, it is only comparatively recently that the site has become available for this purpose, having been successively occupied by a number of tenants, including Blanchelande College, the Arts Centre, and the Liberation and Millennium Celebrations Committee.

Sheltered Housing and "Extra Care" at Rosaire Avenue

In deciding the best use to be made of the site, the Authority consulted with the Island Development Committee and the Board of Health, and concluded that it was appropriate to use the site to help redress the significant shortfall in sheltered housing.

In addition, as part of these consultations it was noted that, in recent years, a significant issue in the UK has been whether sheltered housing schemes should diversify and become "extra care" housing (also known as "very sheltered") and, at the same time, possibly replace institutional residential care.

Under this model, there is a recognition that people with higher dependency (i.e. greater health and/or social needs) can be accommodated successfully in general housing developments. "Extra care" developments, therefore, require on-site 24 hour care services and, require sufficient units to establish a viable development based around communal facilities (usually 30 or more units), often used by the wider community. Provided that schemes are well-designed and link seamlessly with care services, "extra care" schemes can be used increasingly to provide affordable, accessible housing, with support on hand to enable residents to maintain independence, even if their abilities significantly decline.

With this in mind, and noting that there are presently no "extra care" units of accommodation in Guernsey, the Authority agreed that in developing the Rosaire Avenue site, a proportion of the units of accommodation should be capable of providing for people requiring "extra care" services.

Invitations to develop the Rosaire Avenue site

To take these matters forward, the Authority decided that it was most appropriate to offer the Rosaire Avenue site for development by private sector sheltered housing providers. There were several reasons for this including the following:

- such a proposal was less demanding on States' professional and administrative services;
- it was thought that it would avoid substantial States' capital and revenue expenditure; and
- would take advantage of the considerable expertise that exists through experienced providers.

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4 The Authority would point out that if there is any delay in effecting the relocation of the States' Analyst's Laboratory, this may impact on the timing of the housing development of this site, although a phased development is not ruled out.

Underlying this decision was the Housing Authority's general policy that, wherever possible, housing should be provided by the private sector, and the public sector should only provide housing for those who cannot afford to secure accommodation in the private sector. The Authority believed that there was no reason why this policy should not be applied to sheltered housing, particularly if tender conditions were applied that kept the units in "affordable" price ranges for purchase or rental.

However, because it was not clear what basis should be used for tendering and, in order to clarify various matters, the Authority sought expressions of interest in developing the site for sheltered housing. Following the expressions of interest exercise, it was anticipated that a short-list of potential tenderers would be drawn up.

Results of the Expressions of Interest Exercise

Expressions of interest in pursuing this form of development were sought by advertisement in the Guernsey Press, Housing Today, Community Care, and on a housing website on the Internet. In seeking these expressions of interest, the Development Brief indicated that it was anticipated that the Rosaire Avenue site would provide at least 50 units for older people who, due to some health and/or social difficulty, had an identified need for sheltered housing. Companies wishing to express an interest were, therefore, asked to respond with the following information:

(i) the proposed number of units;

(ii) which client groups these would serve and in what proportions, e.g. how many of the total units would be "extra care" as opposed to "sheltered";

(iii) whether the units would be offered for outright purchase, long-term lease, or a mix of these;

(iv) what communal facilities would be provided on-site;

(v) the number of staff required to service the complex, whether accommodated on- or off-site;

(vi) if possible, indicative purchase, leasing, services or rental prices;

(vii) examples of sheltered housing developments carried out in the last five years.

23 parties requested information regarding the development, including a number of the leaders in this field of development in the UK. However, only three parties submitted a firm expression of interest. (A further two parties expressed an interest in the development but because of time constraints and/or certain other reservations regarding the brief, were not in a position to put forward realistic proposals by the due date.)

Analysis of the expressions of interest received has confirmed that the Rosaire Avenue site has potential for use as sheltered housing; indeed, it is now demonstrated that the site could accommodate between 60 and 100 sheltered units. However, the responses received could not be more dissimilar and do not offer an obvious and immediate way forward.

It is, therefore, the Authority's view that these very dissimilar expressions of interest provide no firm foundation to embark on a tendering exercise. It had been hoped that a number of providers would have expressed an interest in developing the site in a similar manner, making it relatively simple to draw up a tender specification. This, however, is not the case and thus the Authority has concluded that to seek tenders at this stage, based on a preferred specification from those submitted, risks reducing the potential tenderers to one – or none if further research by the company concerned makes the preferred scheme uneconomic.

This is because the expressions of interest exercise has identified a number of issues that need to be resolved before development can proceed. These essentially revolve around:

(i) recouping the capital cost of the development; and

(ii) ensuring that there is a mechanism to assist residents in meeting the costs of occupancy of purchased or rented units.

Providing "Affordable Sheltered Housing"

At present, the majority of sheltered housing in Guernsey is provided for purchase by private operators, usually on the basis of lifetime leases which require a capital sum of between £95,000 and £135,000. In addition, residents pay a rental charge and a charge for services.

Investigations carried out with a number of sheltered housing providers in Guernsey have shown the following:

One private provider sells lifetime leases for sheltered units ranging between £95,000 and £135,000. In addition to this capital sum, residents pay between £140 and £152 per month rental/service charge. (The rental element represents approximately 15% of the charge.)

Another private sector provider sells lifetime leases which are re-valued at the time of the sale and sold to new residents at whatever price the market will bear. In addition, residents pay £161 per month service charges to cover the cost of wardens' wages, garden maintenance etc.

Victoria Homes offers units for rental only and sets its charges as follows: the standard weekly rental ranges from £50 to £70 per week, with an additional service charge of between £6 and £10 per week. The charges levied are dependent upon the residents' financial circumstances and the type of accommodation.

Sheltered housing for rental is provided by the Authority at Courtil Jacques and Maison Le Clement. The standard rent for Courtil Jacques is £86.53 per week plus a water rate of £2.30 per week. The standard rent for Maison Le Clement is £50.08 per week with a water rate of £2.30. These standard rents can be rebated depending upon the financial circumstances of the resident.

The availability of sheltered housing on a simple weekly rental basis is thus strictly limited and is provided only by the Authority and by Victoria Homes.

Therefore, in setting the criteria for Rosaire Avenue the intention was to increase rental provision, but to recognise that there might need to be some units for purchase in order to cover development costs. Nevertheless, the clear intent was that if units were provided for purchase they should be "affordable", i.e. within the means of people on low or moderate incomes.

The responses received from potential developers indicate that neither of these objectives is achievable, partly because financial support mechanisms are not in place for residents to meet the ongoing costs of sheltered housing, but predominantly because a combination of land purchase *and* development costs makes unit costs too high for the dwellings to remain in the "affordable" bracket either to purchase or to rent. In other words, some form of subsidy is necessary to make a sheltered housing scheme economically viable if it is to provide "affordable" housing for those of modest means (i.e. especially those who do not have a property to sell).

While, therefore, the Authority remains committed to developing the Rosaire Avenue site for sheltered housing, it concluded that unless the States agrees to utilize a funding mechanism such as those set out below, a tender exercise at this stage could prove fruitless. The likelihood was that the Authority would receive tenders to build units that were aimed at the higher end of the sheltered housing market either for purchase or for rent, helping to meet the overall shortfall in sheltered housing, but doing nothing to meet "affordable" sheltered housing needs. It would also contradict the States' strategic policy if States-owned land was not used to build new accommodation that is "affordable" to those of modest means.

The Authority, therefore, recommends that to enable the development of sheltered housing on the Rosaire Avenue site, the States should agree that it is necessary to provide some form of subsidy to cover development costs.

A number of options have been considered by the Authority, namely:

(i) to offer the land "free of charge";

(ii) to provide the land on a long-term lease at a nominal rent, subject to review from time to time, thereby permitting a commercial rent to be charged at some later date if required;

(iii) to offer the developer/operator an interest free loan, repayable only if the developer/operator ceases to use the site to provide sheltered housing, sells the property or if saisie proceedings are initiated;

(iv) to offer a deferred loan, which may also include the cost of the land, and which is initially interest free, but which may bear interest charges and become repayable by instalments at some future date when and if initial development costs have been recouped, or when the initial commercial borrowing has been repaid;

(v) payment of a grant subsidy.

All of these options have in common the principle that the real value of the land would not be recouped at the time of the development of sheltered housing.

Before, however, considering these options it is important for the States to understand the means by which sheltered housing developments are funded in the UK, in order to ensure that identified needs are met.

Funding Mechanisms to meet the Development Costs of Sheltered Housing in England

In England, the Government, via the Housing Corporation[5], allocates grants for sheltered housing developments based on a percentage of the development costs i.e. architects' fees, site clearance costs, building costs, etc.

Typically a Housing Association/Registered Social Landlord (RSL) will apply to the Housing Corporation to draw up a sheltered housing scheme in a particular area.[6] This scheme needs to meet certain criteria i.e the housing needs strategy for the area, type of housing etc. Any proposed scheme also has to represent value for money i.e. by offering affordable units for rental.

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5 The Housing Corporation is a non-departmental public body, sponsored by the Department of Environment, Transport and the Regions. Its role is to fund and regulate Registered Social Landlords (predominantly Housing Associations) in England.

6 There are some Housing Associations that specialise exclusively in sheltered housing provision. Other Housing Associations include sheltered housing as part of their overall property portfolio.

The Housing Corporation approves funding for schemes and allocates the grant payable.

The percentage grant rate currently allocated by the Housing Corporation varies but can range from 60% to 75% of the cost of the project. The grant is released as follows:

40% acquisition of land
40% start on site
20% completion of development

Housing Associations/Registered Social Landlords need to work with Local Authorities when planning sheltered housing developments and the Local Authority needs to support any scheme that bids for a grant from the Housing Corporation i.e. the Local Authority will have to confirm the need for such a development.

Local Authorities generally offer support for developments by offering free land. This land is counted as part of the percentage grant and the Housing Corporation will effectively "top-up" the grant in cash terms. An independent valuer would value the land, taking into account any restrictions that apply to the site i.e. if it is only to be used for social housing.

Translating this type of funding arrangement to Guernsey would require the States to act as both the Housing Corporation and a Local Authority, i.e. to offer both "free" land and a "top-up" of cash for a development. It is, therefore, in this context that the options outlined above have been considered by the Authority.

Option 1 – Offer the Land "Free of Charge"

One obvious subsidy would be to offer the land "free of charge" or for a nominal consideration. However, based on the figures submitted by those companies expressing an interest in the Rosaire Avenue site this, of itself, is unlikely to be sufficient to meet the proportion of total development costs necessary to ensure the provision of "affordable" sheltered housing on this site.

In the UK, if land is given free to a Registered Social Landlord/Housing Association by a Local Authority, the free land will reduce the total grant payable. The Authority recommends the States that the same principle should apply in respect of Rosaire Avenue.

Option 2 – Leaseholds

As an alternative to giving the land "free of charge" to the developer/operator as part of the necessary States' subsidy, the Authority has considered leasing the land.

In the UK, leasehold land is treated in the same way as freehold when considering loans, provided that the outstanding term of the lease is longer than 30 years for rehabilitation or refurbishment schemes, or 60 years for new build schemes. However, the situation in Guernsey is somewhat different.

The Report of the Sale of Flats Committee of 1986 (Billet D'État I) includes the following relevant statement:

> "Leasehold interest in property is regarded as personal estate not real estate and as such cannot be charged (e.g. mortgaged) . . . the reforms needed to enable (leaseholds to be capable of being charged) are complex and require considerable detailed study."

It is understood that this is still the position today, and this could mean that the developer is only likely to be able to obtain loans to fund the development as follows:

(i) from the freeholder (i.e. the States) who would have security through the ownership of the land; or

(ii) by borrowing from a commercial lender by putting up other assets as security.

The Authority does not consider that the States should be prepared to arrange the additional lending (i.e. beyond the necessary level of subsidy), because the States would in effect be providing all of the development finance in one form or another.

Although the option of commercial borrowing without a bond on the land might be possible for a large company with substantial assets (whether it is a Guernsey or UK company), the Authority considers that it is unlikely to be acceptable for what is intended to be a long-term investment. Even a large company is likely to create a subsidiary to carry out the development and it is unlikely to place the parent company's assets at risk to guarantee this project. The subsidiary would, therefore, be expected to be self-sufficient rather than dependent on its parent.

On the basis of the above, the Authority had initially concluded that to offer the land on a leasehold basis would be impractical. However, the Authority noted the reference to a similar situation in the Board of Administration's policy letter concerning the Market redevelopment, where a long-term lease of 125 years will be executed after the terms of a Redevelopment Building Contract have been fulfilled.

The Authority has also had discussions with a leading Island bank which has indicated that it does not rule out the possibility of lending on leasehold property, subject to a full analysis of the commercial risks involved in the project which is the subject of such lending. The offer of land on a leasehold basis may not, therefore, be as problematic as first thought.

Option 3 – Provision of an "Interest Free" Loan

There is a precedent for assisting with the development costs of a housing project for older people; namely, the "interest free" loan of £1 million given to Methodist Homes for the Aged (Guernsey) Limited (MHA) to build and equip what is now Maison L'Aumone. (See Billet D'État XIX, 1988.)

At the time of the original application for a loan, MHA informed the Authority that its intention was to accommodate persons living in owner-occupied dwellings who, whilst having limited financial resources, viewed the future with some concern because of the increasing cost of property maintenance and the possibility of being unable to care for themselves adequately in their own homes. This target population was thus similar to that proposed to occupy sheltered housing at Rosaire Avenue, (with the exceptions that it is intended that residents at Rosaire Avenue have a recognised health and/or social need at the time they take up residence and that the emphasis will be on those who cannot afford to purchase).

In the case of Maison L'Aumone, which was subsequently registered as a residential home, the States agreed to make a contribution of 50 per cent of the cost of building and equipping the home, up to a maximum contribution of £1 million, based upon an assurance that the remainder of the cost could be raised.

The States further agreed that the loan would only be repayable if MHA ceased to operate Maison L'Aumone as a residential home, sold the property, or if saisie proceedings were instituted.

The States also agreed that no payment would be made to the project until various criteria had been met, including that the company had consented to a bond, registered as first charge against the property and which satisfied Her Majesty's Procureur that the States' investment in the project was secure and that the States would be able to recover its investment in the event of any future sale of the property or in saisie proceedings.

In addition, the States and the Company concluded a separate agreement that in the event that MHA ceased to operate Maison L'Aumone as a residential home, or sold the property, or a judgement was obtained against the Company, the States could require the Company to pay to the States, in addition to the £1 million necessary to redeem the Bond, such sum as represented the difference between £1 million and a proportion, in the case of sale, of the selling price, or in any other case of the value of the property as agreed between the parties or, failing agreement, as determined by arbitration.

This arrangement has parallels with what occurs in the UK where if a scheme ceases to operate and the site is sold, the total amount of grant from the Housing Corporation must be repaid to the Corporation. (The only exception is if the scheme is sold to another Registered Social Landlord/Housing Association; however, this transfer has to be agreed by the Housing Corporation in advance.)

Finally, in making the interest free loan in respect of Maison L'Aumone, it was made clear that the States would have no involvement in the day to day running of the Home nor would it have any liability for ongoing revenue or capital costs. The Company would be free to administer the project as it saw fit.

Although the Authority would not recommend that a loan be made available in identical terms, the Maison L'Aumone case could nevertheless provide a model on which a deferred loan could be based for the Rosaire Avenue scheme.

Option 4 – Provision of a Loan which is initially "Interest Free"

Option 4 is a variation on Option 3, i.e. it allows for the loan to bear interest and become repayable at some later date. On present information, it appears unlikely that a requirement for full repayment with interest would encourage a developer to proceed on the Rosaire Avenue site. It could, however, be reviewed for other sites on a case by case basis in the light of the financial model applicable to the development in question.

A further variation would provide that repayments of capital would become due only on certain conditions; for example, if the property was sold or ceased operation as a sheltered housing project. Similarly, capital could be scheduled for repayment on the expiry of a specific term such as that related to the repayment of commercial borrowing.

Option 5 – Payment of a Grant Subsidy

The assistance generally provided to Registered Social Landlords/Housing Associations is either by way of a capital grant, or by guaranteeing interest payments on commercial borrowing above a specified interest rate. It is conceivable that, in some instances, a combination of a capital grant and an interest guarantee will provide the most economical means of providing assistance.

Assistance with Development Costs: Conclusions

Each of the above options has merit and as stated earlier, if the Rosaire Avenue site is to be developed with "affordable" sheltered housing, especially for rent, the States will have to accept that a substantial amount of financial assistance will be necessary. If the leasing of the land proves to be feasible i.e. enables the developer to fund at least a part of the development cost with commercial borrowing – then the Authority would express a preference for pursuing this course.

However, if leasing proves difficult to arrange and fund, then the Authority would recommend that the land should be made available on a deferred loan basis, similar to that applied to Maison L'Aumone, but with the additional requirement that the principal amount of the loan will be repayable at some future date to be agreed (but probably at the end of the anticipated 25 year period of any commercial borrowing).

WHATEVER ARRANGEMENTS ARE MADE REGARDING THE LAND IT MUST BE ACCEPTED THAT A SUBSTANTIAL PART OF THE DEVELOPMENT COSTS WILL NEED TO BE FUNDED WITH STATES' ASSISTANCE.

At this time, the Authority's view is that the most appropriate means of providing the assistance is to combine a capital payment with an interest subsidy.

Such a combination would limit the amount which the States would need to pay at the outset but would provide ongoing financial assistance to the developer/operator for a number of years. This has the advantage that the interest subsidy can be reviewed at regular intervals and phased out when possible. A full capital grant would, however, be paid upfront irrespective of the project's eventual financial performance. The Authority also considers that it could be appropriate that the capital payment should be set up as a deferred loan on similar principles to the Maison L'Aumone loan.

Although the various funding means are discussed further below, the Authority's view is that the States should agree the principle that substantial assistance would be provided but defer a decision on the level and form of financial assistance to be made available until after receipt of tenders. The Authority believes that these matters should be part of the tendering process in order that the States may obtain best value from its investment.

In its final recommendations to the States on the form of financial assistance the Authority will take into account whether the developer is a commercial operator or a Registered Social Landlord/Housing Association. In the case of the former, the Authority may wish to recommend that forms of assistance are recoverable at least in part, whereas in the case of a Housing Association, which operates on a non-profit basis, the conditions may be less stringent if the Authority is sure that any surpluses can only be re-invested in social housing in Guernsey. In either case, the Authority will ensure that safeguards are in place to ensure that charges to tenants remain in the affordable category in the long-term.

Estimated Capital Costs of Rosaire Avenue Scheme

Based on current building costs and information provided by potential developers in submitting expressions of interest, the Authority anticipates that, *for illustration purposes*, to provide 80 sheltered units of accommodation, with the appropriate communal facilities (but no "extra care"

units which would cost more due to the increased floor space requirements for both rooms and communal areas), would cost in the region of £6 million for the States to develop. This figure excludes the land value – estimated by the Authority at £3 million – which, in the case of a private developer, would need to be added.

From the expressions of interest exercise, a private sector provider can recoup his investment if he offers units for sale with no price restrictions. However, the high capital cost of the development, including land value, makes a rental scheme non-viable as rental charges would be prohibitive.

The Authority has calculated that to cover interest charges and produce a reasonable return on investment would require rentals in the region of £280 per unit per week on a capital cost which would exceed £10 million. This calculation confirms that the scheme cannot provide "affordable" sheltered housing without some form of public subsidy.

However, by applying the UK financial model used to establish the extent of grant funding available for developments from the Housing Corporation to the Rosaire Avenue development, the following results:

> It is assumed that the land value for the Rosaire Avenue site would be £3 million and that build costs for the development would be £6 million. The addition of "on costs" which include professional fees, interest charges, furnishings etc would result in a total cost of between £10 million and £10.5 million. Grant subsidy would be between 70% and 75% and the Registered Social Landlord in the UK would be expected to fund between 25% and 30% of the total cost usually through commercial borrowing. Based on a total cost of £10.5 million the Housing Corporation grant could therefore be in the region of £8 million and the balance of £2.5 million would be funded by the developer generally through commercial borrowing.
>
> In this example, if the land was given free of charge, the cash "grant" would reduce to a little under £5 million.

The Authority has calculated that grant assistance at this level would produce a viable scheme that would give the developer/operator an adequate return on investment if rents were set in the range £65 to £75 (exclusive of care charges), i.e at "affordable" levels.[7]

Interest Subsidy combined with a Capital Grant

Financial support might also be given through an interest subsidy. This variation was set out in some detail in the Authority's recent policy letter on Housing Associations (Billet D'État II, 2001), but from the Authority's examination of this variation in respect of the Rosaire Avenue development, it appears unlikely that interest subsidy alone could produce a viable scheme.

However, it is likely that if an interest subsidy was offered as *an addition* to a capital grant (or deferred loan) then the amount of that grant/loan payment could be substantially reduced. Although there would be an annual ongoing cost to the States for some years, the amount of support through interest subsidy would normally be subject to review at intervals and could be withdrawn: (a) when it was no longer needed; or (b) if on inspection of the developer/operator's annual accounts, the Authority was not satisfied that the project was being operated efficiently.

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[7] In setting rents at these levels, the Authority has taken the view that these would be affordable by the majority of persons on low or moderate incomes. If rents were set at a higher level, grant assistance may be reduced, but more people would need to apply for welfare assistance from the Social Security Authority to pay them.

Based on a grant of £1.5 million (in addition to the provision of "free" land), the Authority calculates that it is likely that a viable scheme could result if interest subsidy was available for most of the commercial borrowing period (usually 25 years); and if that borrowing was in the region of £5.6 million, the amount of the subsidy spread over the extended period could amount to between £5 million and £5.4 million.

Finally, it is important to note that these figures have been prepared on the basis that all of the dwellings would be rented. However, to provide a cross-subsidy and to generate a social mix of occupants, the Authority will give further consideration to whether a scheme could allow for some dwellings to be sold, whether on a partial ownership basis, or at full commercial rates, or through a subsidised long lease[8]. Furthermore, as stated earlier, these examples should be regarded as illustrations of the principles only; more precise details will be reported to the States following the tendering process.

States' development of Rosaire Avenue for Sheltered Housing

If the States undertook the direct development and management of the project, development costs are likely to be in the region of £7 million. It can thus be seen that funding support of a private developer could save in excess of £2 million in direct capital funding compared with development by the States. (For the purposes of this comparison, land cost is excluded from both calculations.)

Furthermore it is likely that, if interest subsidy support was provided in addition to capital assistance, the initial capital saving could increase to as much as £5.5 million. It is, however, acknowledged that the ongoing revenue costs would need to be carefully assessed. For example, the Authority acknowledges that, when comparing direct States development with grant funded development, the States would forego potential income in the region of £225,000 per annum. However, in the Authority's view, this loss of income is more than offset by the savings on the additional financial and manpower resources that would be required to service a States' development e.g. extra staffing, administration, costs of repairs and long-term replacement etc. (see below).

The **comparative capital costs** to the States are as follows:–

Direct States development	£7 million
"Grant"* funded development	£5 million
"Grant" (associated with interest subsidy)	£1.5 million.

(* In this section the word "grant" should also be interpreted as including "deferred loan").

By providing only a proportion of the building costs by means of an interest free or deferred loan, the amount of capital expenditure required by the States will thus be substantially less than if the development is fully funded by the Authority.

Furthermore, that initial capital expenditure could be further reduced if the States provided additional support through interest subsidy funding.

8 As explained in a recent policy letter (Billet D'État II, 2001), Partial Ownership is a type of housing tenure where the purchaser does not acquire the full equity of a property. There are many variations of such schemes but all are designed to help people who cannot afford to buy a property outright, and are usually available through Housing Associations.

In addition to the cost implications, a project of this size, managed by the Housing Authority, would require significant architectural and administrative staff input to manage the scheme; and, as a result, would certainly delay development of the site even further. Moreover, if the sheltered housing remained under the Authority's management, it would have to break the Staff Number Limitation Policy to employ wardens and other staff, or have to contract these services out. By doing so the Authority would be missing an opportunity to benefit from the expertise of people who have wider experience of providing sheltered housing. In other words, the Authority would have to buy in the expertise to both develop and operate the scheme.

Furthermore, if any "extra care" housing is to be provided, care staff would have to be employed by the Board of Health, or again the services would have to be contracted out. For example, assuming that 25 of the units were occupied by persons who needed "extra care" the Board of Health has advised that it would be necessary to have two support workers on duty at all times between 7.30 am and 10.30 pm, supplemented by an additional member of staff between 7.30 am and 11 am and between 6 pm and 11 pm. One of the full-time staff would be paid on a higher grade as a team leader. At night, two sleep-in staff would be required.

The cost of employing these staff, including administration, relief cover and sundry expenses would be in the region of £250,000 per annum.

By providing financial assistance to a private provider, the same social objectives are achieved as the Authority developing the site itself, but in addition to the saving in capital costs, there are the advantages of the Authority and the Board of Health not being faced with the ongoing administrative and staff costs of managing the development and providing the necessary services or the ongoing maintenance and upgrading of the development.

Existing Charging Arrangements for Sheltered Housing in Guernsey

Related to the issue of how to fund sheltered housing development costs is the question of what financial assistance should be available from the States to enable individual residents to meet existing or future charges for sheltered housing in Guernsey.

In simple terms there are currently three charging models for sheltered accommodation:

(i) purchase of a proportion of the freehold, plus the payment of monthly service charges and a monthly rental;

(ii) purchase of the leasehold, plus the payment of monthly service charges;

(iii) payment of a weekly rental.

In the majority of cases, persons occupying sheltered housing under the first two models require no financial assistance from the States, principally because the persons concerned have sold a dwelling which provides the necessary finance.

In the third model, where a rent is payable, financial assistance is available either via the Supplementary Benefit legislation administered by the Social Security Authority (in the case of Victoria Homes residents), or for States' tenants a rent rebate can be claimed.

However, with a view to the proposed major development at Rosaire Avenue, the third model may not be appropriate for "affordable" homes in that it provides no certainty to the developer as to the

income he can expect. There is clearly a need to establish some uniformity in the method and level of financial assistance that is available to prospective residents. Potential developers also need to know what level of financial assistance would be available to residents in order to determine their operating costs and hence to set appropriate rents and service charges.

Financial Support Arrangements in the UK

The financial support arrangements for sheltered housing residents in the UK are complex and presently in transition. This reflects the fact that there are many types of sheltered housing provision and no standardisation in services provided or charges levied.

Historically, people in sheltered housing in the UK have been able to claim Housing Benefit[9] and this is set to continue. The main proposed change is in relation to funding wardens and other services.

Under current proposals, sheltered housing providers are to be required to split their costs between housing and support.

Measures to address the Financial Support Arrangements in Guernsey

With the Rosaire Avenue development in mind, the inter-departmental Working Party looking at the funding of long-term care has recently reviewed the current inadequate funding mechanisms for sheltered housing and made recommendations to the Social Security Authority regarding financial support arrangements for all existing and future sheltered housing developments, in both the public and private sector.

In summary, the proposals are as follows:

- charges levied would need to be broken down into three clearly defined elements:
  - accommodation (i.e. rent)
  - services, e.g cleaning of communal areas, gardening, some warden responsibilities, etc
  - care (or support), e.g personal care, help with food, etc
- prior to introduction of the long-term care insurance scheme, Supplementary Benefit should be used to fund individuals who do not have sufficient resources to meet these charges
- owner-occupiers should receive means-tested assistance towards service and care charges; assessments should ignore equity in the property. (It is anticipated that very few, if any, residents would require assistance through Supplementary Benefit; most people purchasing sheltered housing have significant amounts of capital – in some cases released by the sale of their previous property – plus income in addition to the Old Age Pension.)

9 Housing Benefit – for which there is no direct Guernsey equivalent – is a social welfare benefit that helps to ensure that households in Great Britain are able to pay the rent for their homes.

- those renting sheltered housing should receive means-tested assistance with accommodation, services and care costs
- after introduction of the proposed long-term care insurance scheme:
  - owner-occupiers should receive means-tested assistance with service charges only
  - those renting sheltered housing – both private and public – should receive means-tested assistance with housing and service charges only
  - in both cases the care element should be funded via the Board of Health's community care budget. (NB Sheltered housing would NOT be funded directly from the long-term care insurance fund as part of the long-term care insurance scheme.)

The Social Security Authority supports these proposals. It has also advised the Authority that to provide assistance with sheltered housing charges, the Supplementary Benefit legislation may need to be amended (by Ordinance) to create a new benefit limitation for sheltered housing.

Financial Support for "Extra Care" Accommodation

If, as intended, the Rosaire Avenue development includes some "extra care" units, then the Social Security Authority advises that the Supplementary Benefit legislation may need to be further amended to provide financial assistance to residents of these units, as these charges will exceed those for sheltered housing in general.

For example, using verifiable figures provided by Hanover Housing Association – a leading provider of sheltered housing in the UK – it is estimated that the true cost (i e without subsidy) of an "extra care" unit of accommodation is £379 per week; and this before the resident pays for additional living expenses. This compares with the current benefit limitations for nursing and residential home beds of £417 and £306 per week respectively.

However, if the provision of the "extra care" units is subsidised using the funding mechanisms above, which have been calculated so as to limit rental charges to £65 and £75 per week, then any additional charges above the fixed rent levels will be clearly attributable to the costs of delivering more intensive care support and should be substantially less than these figures.

Conclusions and Other Issues: Rosaire Avenue

Funding

In the UK, Registered Social Landlords/Housing Associations are major providers of sheltered housing. They are eligible to obtain capital funding by means of Social Housing Grant payable by the Housing Corporation (funded by central government) and, in some cases, additional grants from Local Authorities and other organisations. Local Authorities also offer free building land.

"Extra care" schemes may qualify for additional Social Housing Grant and for Supported Housing Management Grant to "support the high management and service costs of schemes for tenants with special needs, for example, for frail elderly people".

These funding arrangements are quoted in one of the expressions of interest proposals received for Rosaire Avenue to demonstrate how these measures "dramatically lower the net cost [to the developer/operator] of provision of accommodation", thus enabling UK Housing Associations to charge their residents a low rent.

The inescapable conclusion is that the States must provide similar financial assistance with development costs if the private sector is ever going to provide "affordable" sheltered housing that is within the means of people on low or modest incomes.

The Housing Authority, therefore, recommends the States to agree that developers be invited to come forward with schemes for providing sheltered housing on the Rosaire Avenue site, on the basis that the Authority will offer an appropriate level of financial assistance with development costs. Developers will be asked to tender for sheltered housing schemes on this site that include the provision of "extra care" units and to provide details of the financial assistance that they consider would be necessary to make the scheme viable.

Negotiations with interested parties will need to proceed on an "open book" basis in order to establish with certainty the true development costs and other funding issues. In addition, the Authority will need to obtain valuations of the land to include in the calculations. The Authority would then report back to the States with the results of this exercise, to seek agreement to the means and level of financial assistance to be provided to finance the preferred scheme.

However, if it is decided that capital funding (rather than interest subsidy) is the appropriate means of providing assistance (whether it be non-repayable or in the form of a deferred loan) then, as noted earlier in this report, excluding the value of the land, the Authority anticipates the size of the payment required would be in the region of £5 million. As the Authority's capital allocation is already fully committed to other housing projects, there would be a need for the Advisory and Finance Committee to make provision for this payment in recommending to the States the Authority's future capital allocations.

There is, however, a strong possibility that the development would be phased and, therefore, the amount may be payable in instalments.

Similarly, if the interest subsidy option is utilised the Authority's revenue budget will need to be increased to allow for such payments.

Building Specification

In view of the significant amount of States' subsidy proposed for this project, the Authority is determined to ensure that the development represents value for money and properly meets the design and operational requirements for sheltered housing.

With the assistance of the Winchester Housing Group, the UK housing association that has been advising the Authority on a number of policy initiatives, a building specification is in the process of being drawn up to guide potential developers/operators.

This building specification draws upon best practice in sheltered housing development in the UK and sets down various criteria that developers/operators will have to comply with e.g. accessibility/wheelchair access, emergency call systems etc. This document will, therefore, complement the Planning Brief produced by the Island Development Committee and will form an integral part of the tender documentation if the States agrees these proposals.

At the heart of this specification is "flexibility": each unit will be designed to ensure that it can continue to be occupied by residents in the event that their health and/or social needs increase over time. This flexibility is key to ensuring that expensive alterations do not have to be made to the

units at a later date if the health needs of the residents increase; it will also mean that residents will not necessarily have to move to long-term residential or nursing care as their dependency increases. Allowing older people to "age in place" also has advantages in terms of residents being able to retain or recover faculties and sociability.

In addition, the Authority plans for up to 25 per cent of the units at Rosaire Avenue to be capable of accommodating people with "extra care" needs. However, as the requirement for these units is unlikely to be present from day one, the units will be designed in such a way as to permit rather than to require such occupation, thereby ensuring that occupancy levels can be maintained at a high level from the outset.

Finally, as part of the building specification, the Board of Health has set down the community facilities that it considers integral to the success of this development: these include a common room/meeting room, a clinic room for visiting health professionals, hairdressing room etc.

Service Level Agreement

In addition to the building specification, the successful tenderer will be required to comply with a service level agreement being drawn up by the Authority in conjunction with the Winchester Housing Group and the Board of Health. This will set out the quality and standards of service to be provided to residents of the development.

This service level agreement will be closely monitored by the Housing Authority and the Board of Health, to ensure that the development continues to provide quality sheltered housing services for persons with a health and/or social need.

Compliance with a building specification and a service level agreement are commonplace in securing Government funding for sheltered housing developments in the UK, and the Authority considers both elements essential to the successful development of Rosaire Avenue for this purpose.

Size and Mix of Development

During the preparation of these proposals, it has been suggested that the requirement for additional sheltered housing is unproven. It has also been questioned whether such a concentration of sheltered housing is desirable.

The Housing Needs Survey, which commenced in November 2000, asked a specific question intended to help determine the future requirement for sheltered housing; and earlier in this report, reference was made to the research that has already been undertaken to assess the requirement for sheltered housing in Guernsey, which the Authority and the Board of Health concluded demonstrated the requirement for a development of the size proposed for Rosaire Avenue.

However, in order to validate the information obtained from the restricted sample, the Authority proposes to undertake the following additional research:

- review the Authority's elderly persons waiting list to see how many appear to need sheltered as opposed to independent accommodation;
- review the Authority's elderly persons tenancies to see how many could benefit from a transfer from existing one-bedroomed dwellings to sheltered units;

- review the residents of the Authority's two residential homes to see how many, at the time of their application, could have benefited from the allocation of a sheltered unit instead of going into a home;
- liaise with the Board of Health to establish the sheltered housing needs for people with a disability.

Prospective developers/operators will also, no doubt, carry out their own market research before tendering for this development; and, in this context, the fact that three potential developers/operators expressed interest in schemes of between 60 and 100 units suggests that the requirement for such a development does exist.

On the question of concentrating so much sheltered housing development on this site, the Authority would point out that:

- a development of this size is not abnormally high by UK standards;
- as referred to above, given the minimum number of units required to make a sheltered housing development viable (20-25), suitable sites in Guernsey are relatively few in number. It, therefore, seems sensible to make best use of available sites to meet the shortfall in provision;
- with careful design, any suggestion of over-development can be avoided;
- as it is planned to accommodate older persons with a range of different health and social needs, a self-supporting community should be established. The addition of facilities that can be used by the wider community will also serve to reduce any stigmatisation of the development. Indeed, the Authority is keen that the development is viewed positively as a "place to live in" and not as a "place to die in".

In addition, the Authority will be pleased to consider tender proposals that include a mix of tenure options i.e. where some units are available for outright purchase, or purchase on a shared equity or shared ownership basis. This may assist not only with the financing of the scheme, but also with the social mix of the development.

Future Sheltered Housing Developments

The principles set out in this report will effectively segment the sheltered housing market in Guernsey.

With the introduction of the new Sheltered Housing Use Class and of course subject to IDC permission – developers will be free to develop sheltered housing on privately-owned land. This housing is likely to be for purchase at market prices and to be demand-led; in other words, there will be no requirement for persons to have a recognised health and/or social need before they can purchase a sheltered unit.

However, the Authority is of the view that any sheltered housing development on States' land should only be occupied by persons with an identified health and/or social need at the time of application. It will, therefore, establish this as a criterion for any potential developer/operator to adhere to in pursuing development of the Rosaire Avenue site.[10]

[10] The actual criterion for residence will be a matter for the developer/operator to determine in conjunction with the Housing Authority and the Board of Health.

Furthermore, the Authority is of the view that because there will always be people within the community who cannot access private sheltered housing due to a lack of resources the majority of dwellings in any new sheltered housing developments on States-owned land should be "affordable" to persons of modest means. The Authority is convinced that the only way that this can be achieved is by offering assistance to developers/operators with development costs, including the value of "purchasing" the land.

It follows, therefore, that the funding principles set out for Rosaire Avenue could apply equally to any future sheltered housing development on States-owned land involving a private developer/operator.

In this regard, the Authority has earmarked Courtil Jacques Phase 3 as a possibility for the provision of further sheltered housing. In the light of the States' response to this report, the Authority will consider whether this site should be developed directly by the Authority or whether it should be offered for development along the lines proposed for Rosaire Avenue.

Consultation

The Authority has consulted the Board of Health, the Social Security Authority and the Island Development Committee on these proposals. They have expressed support for the recommendations.

In addition, the Authority has consulted with the Advisory and Finance Committee during the preparation of these proposals. The Advisory and Finance Committee, in turn, sought advice on the Authority's proposals from the School of Policy Studies at the University of Bristol.

The School of Policy Studies raised a number of issues, each of which has been addressed in finalising this report. Importantly, these expert advisors advised that:

> "Given prevailing land and property prices, the conclusion that the delivery of affordable housing will require subsidy seems unavoidable, unless a development involving properties for sale is felt appropriate."

As noted above, while the Authority accepts that the development could include *some* properties for outright sale, or partial ownership, it considers that the *majority* of the units should be made available for rental at rents which are within the means of persons on low or moderate incomes. Accordingly, a States' subsidy will be required to bring this objective into effect.

Sheltered Housing for Open Market Residents

Although not directly related to the main themes of this policy letter, there is one further matter concerning policies on sheltered housing that the Authority wishes to draw to the attention of the States; namely, while it has been recognised that there is a general shortage of sheltered housing in Guernsey, there is a specific problem for Open Market residents.

The provisions of the Housing Control Law effectively prevent the construction of new Open Market accommodation. Similarly if a large existing Open Market property is converted to sheltered housing, the Law would only allow one dwelling in the subdivided property to be inscribed in the Open Market Housing Register.

Therefore, there is effectively no means by which Open Market sheltered housing of the type envisaged in this report can be created.

As mentioned elsewhere in this report, there are two sheltered housing developments in Guernsey, in which the Authority has agreed to grant concessionary licences for a total of 14 of the units.

These 14 units are the only sheltered dwellings which an Open Market resident can currently occupy as of right. Even then the resident has to satisfy the following criteria:

- He/she is over aged 55; and
- He/she has been resident in Guernsey for the last 10 consecutive years.

These 14 units have to satisfy potential demand from an Open Market housing stock comprising some 1,600 dwellings.

This means that an Open Market resident who is need of sheltered housing has the choice of waiting for one of the 14 units to become vacant; leaving the Island; or occupying other accommodation such as a residential home which may provide a greater level of care than he or she currently needs.

The Authority considers that there is a need to expand the availability of sheltered housing for long-term Open Market residents. However, it would not recommend that such accommodation should be given full Open Market status, because if the sheltered housing unit was inscribed in Part A of the Housing Register, it would be free to be occupied by newcomers to Guernsey and so potentially would not assist the existing long-term Open Market resident.

The Authority has, therefore, agreed that it will grant concessionary licences for a proportion of new sheltered housing units, which could be occupied by persons who satisfy the age and residence criteria mentioned earlier in this section of the report. However, the Authority considers that it would be more appropriate in the case of concessionary licences for new developments to amend the age criterion to 65 years i.e. arrangements in the two existing developments (Les Blancs Bois and Rivermeade Court) will remain unchanged.

At the time of the 1996 Census, Open Market households represented 7.5% of all households in the Island. The Authority intends, therefore, to make provision for 7.5% of the total number of sheltered units in new developments to be made available under licence, on the basis set out above, to existing Open Market residents. This policy will not apply to new developments undertaken by the States.

Recommendations

On the basis of the expressions of interest received for Rosaire Avenue and the information obtained by the Housing Authority regarding the development of sheltered housing sites in the UK, the Authority asks the States to agree that:

(i) in principle, the site of the former Girls' Grammar School at Rosaire Avenue be developed to provide predominantly sheltered housing;

(ii) the Housing Authority should invite developers/operators to produce schemes predominantly for the development of "affordable" sheltered housing for purchase or rent – including, if appropriate, "extra care" units – on the Rosaire Avenue site, on the basis that the Authority will offer financial assistance with the capital costs of the development;

(iii) the means and level of assistance to be provided to the recommended tenderer shall be subject to the final approval of the States;

(iv) the Advisory and Finance Committee shall have regard to the requirement for any financial assistance by way of capital funding or interest subsidy to be paid to the developer/operator of the recommended scheme for the Rosaire Avenue site and any future sheltered housing schemes on States-owned land when advising the States on the capital and the revenue allocations to the Housing Authority.

I have the honour to request that you will be good enough to place this matter before the States with appropriate propositions.

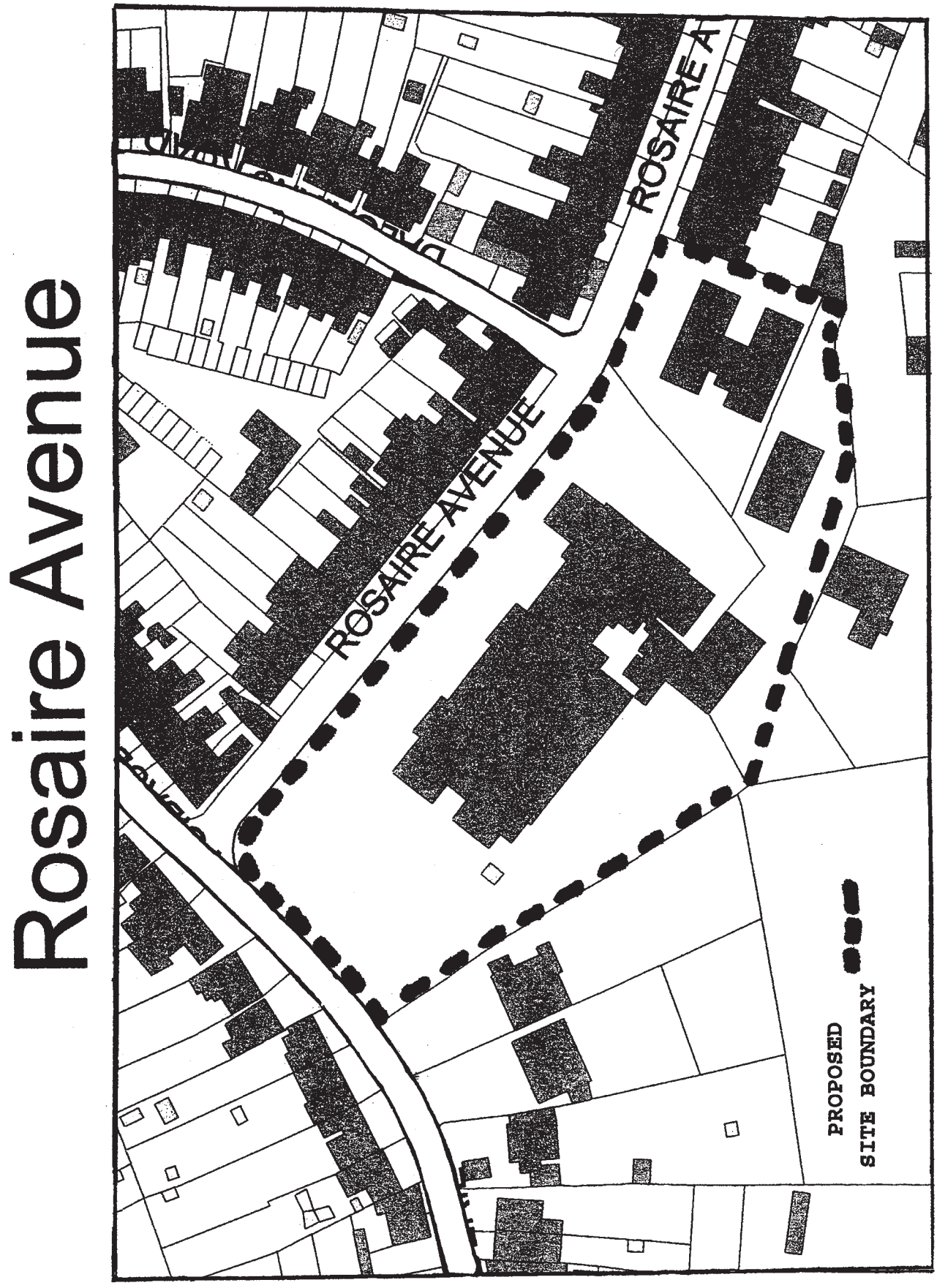
I am, Sir,

Your obedient Servant,

J. E. LANGLOIS,

President,

States Housing Authority.


Rosaire Avenue
ROSAIRE AVENUE
ROSAIRE A
PROPOSED
SITE BOUNDARY

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

28th March, 2001.

Sir,

ROSAIRE AVENUE

I have the honour to refer to the letter dated 21st March 2001 addressed to you by the President of the Housing Authority on the subject of the development of sheltered housing at Rosaire Avenue, St. Peter Port.

The Advisory and Finance Committee acknowledges, as stated in the Strategic and Corporate Plan, that there is relatively little sheltered housing accommodation available to older people in Guernsey. This under-provision is of particular concern given the age profile of the local population and the longer life expectancy we all now enjoy. The shortfall is especially acute when it comes to affordable sheltered accommodation for people of modest means.

The Committee, therefore, welcomes the Housing Authority's initiative in testing the market to see whether a commercial company or a housing association might be interested in developing the site of the former Girls' Grammar School at Rosaire Avenue for affordable sheltered housing.

The outcome of the Authority's 'Expressions of Interest' exercise has provided convincing evidence that the private sector (including 'not for profit' housing associations) would be unable to provide affordable sheltered housing at Rosaire Avenue without some form of special financial assistance from the States. Housing associations in the UK, for example, receive substantial assistance from both local and central government sources in order to carry out development. The value of land and the high cost of development in Guernsey make the development of affordable housing particularly difficult.

In these circumstances and taking into account the encouragement in the Strategic and Corporate Plan for both sheltered housing and affordable housing, the Committee accepts, **as a matter of principle**, that some form of public subsidy will be needed to bring about the development envisaged. As the Housing Authority explains, however, there are many different forms of assistance which might be offered depending on the nature of the development which is proposed. The amount of financial help required will also vary and may be significantly reduced if, for example, the provision of affordable homes is cross subsidised by incorporating a proportion of more highly priced homes within the overall development. In this respect, the Committee is pleased that the development of the Rosaire Avenue site 'predominantly' for affordable sheltered housing will not preclude an element of more commercially priced accommodation as part of the housing mix.

Although the Committee agrees with the Housing Authority that an experienced provider of sheltered housing may be able to design, build and manage such accommodation more effectively than the Authority itself could do, it believes that such benefits need to be clearly apparent when detailed proposals come forward. The Committee will wish to evaluate any recommended scheme very carefully to ensure that public money is wisely spent.

Subject to the above comments, the Advisory & Finance Committee supports the Housing Authority's present proposals.

I am, Sir,

Your obedient Servant,

L. C. MORGAN,

President,

States Advisory and Finance Committee.

The States are asked to decide:–

VII.—Whether, after consideration of the Report dated the 21st March, 2001, of the States Housing Authority, they are of opinion:–

1. To agree in principle that the site of the former Girls' Grammar School at Rosaire Avenue shall be developed to provide predominantly sheltered housing.

2. That the States Housing Authority shall invite developers/operators to produce schemes predominantly for the development of "affordable" sheltered housing for purchase or rent, including, if appropriate, "extra care" units, on the Rosaire Avenue site, on the basis that that Authority will offer financial assistance with the capital costs of that development.

3. That the means and level of assistance to be provided to the recommended tenderer shall be subject to the final approval of the States.

4. That the States Advisory and Finance Committee shall have regard to the requirement for any financial assistance by way of capital funding or interest subsidy to be paid to the developer/operator of the recommended scheme for the Rosaire Avenue site and any future sheltered housing schemes on States-owned land when advising the States on the capital and the revenue allocations to the States Housing Authority.

STATES TRAFFIC COMMITTEE

REGULATION OF OVERSIZE VEHICLES

The President,
States of Guernsey,
Royal Court House,
St. Peter Port,
Guernsey.

16th March, 2001.

Sir,

REGULATION OF OVERSIZE VEHICLES

1. **Introduction**

The Committee currently regulates the movement of oversize vehicles through the Road Traffic (Construction and Use of Motor Vehicles) Ordinance, 1970 which has been amended on seven occasions although not since 1987. The Ordinances are collectively cited as the Road Traffic (Construction and Use of Motor Vehicles) Ordinance 1970 to 1988. All references in this policy letter to "the Ordinance" relate to the relevant Ordinances.

In addition the States have, by Resolution, provided the Committee with a policy framework within which exemptions to the requirements of the legislation can be granted.

The purpose of this policy letter is to set out the current legal and policy requirements governing oversize vehicles and the associated difficulties that are experienced in meeting them. It also seeks the approval of the States to amend the existing legal and policy frameworks to enable marginally wider, longer and heavier vehicles to circulate on some of the Island's public highways in appropriate circumstances.

2. **Background**

The use of oversize vehicles in the Island is regulated by their width, length and weight as follows:–

a) **Vehicle Widths**

- vehicles up to 2.24 metres wide can circulate anywhere in the island;
- vehicles above the 2.24 metres width limit can travel anywhere in the Island either with a vehicle escort (currently provided under contract to the Committee by Island Coachways) or without an escort but with a permit issued by the Committee to travel along the approved routes;
- buses up to 2.31 metres can circulate on routes approved by the Committee for the provision of scheduled, school and private hire services;
- vehicles up to 2.5 metres can travel on the "harbours route" (i.e. between Vale Castle and St Peter Port harbour);

NB. For details of the approved routes refer to Appendix 1.

b) **Vehicle Lengths**

Under the existing legislation the following maximum limits apply to vehicles circulating on the Island's public highways **without** a permit from the Committee:

- rigid vehicles up to 9.45 metres long including any trailer it may be towing;
- buses up to 9.75 metres;
- articulated vehicles up to 10.67 metres.

In addition and by policy, the Committee can issue permits to enable:

- articulated vehicles up to 13.11 metres to circulate on the 'harbours route' between Vale Castle and St Peter Port harbour;
- articulated vehicles up to 13.11 metres to travel Island-wide between the hours of 9.00 p.m. and 6.45 a.m. providing the journey is essential, the load indivisible and no suitable, alternative vehicle is available;
- cranes and low loaders up to 13.11 metres to travel Island wide other than between the hours of 8.00 a.m. – 9.00 a.m. and 5.00 p.m. – 6.00p.m.;
- articulated vehicles up to 15.24 metres to travel at any time along the route between St Peter Port harbour and the northern end of Bulwer Avenue to Longue Hougue Lane and to and from the industrial sites at Northside, Lowlands, Braye Road and Pitronnerie Road between the hours of 9.00 p.m. and 6.45 a.m.;
- vehicles towing boats on trailers or any other type of trailer up to 12.19 metres in overall length including the length of the towing vehicle, to circulate on specified routes between the place of storage and either St Peter Port or St Sampsons harbours (some exceptions are applied such as to facilitate the movement of lightweight rowing skiffs under 13.72 metres).

Generally, a permit issued to facilitate the movement of oversize vehicles other than on the "harbours route" prevents the vehicles travelling between 8.00 a.m. – 9.00 a.m., 11.45 a.m. – 2.15 p.m. and 5.00 p.m. – 6.00 p.m. which are the times when higher levels of traffic congestion occur. The main exception relates to cranes and low-loaders which are permitted to circulate during the period of 11.45 a.m. to 2.15 p.m. as they are usually on short term hire and need to be able to move frequently between various sites.

The majority of permits restrict the vehicles to travelling on specified (approved) routes which are capable of supporting the regular passage of such vehicles. It should also be noted that vehicles of any size can travel Island wide without a permit providing it has a vehicle escort, the journey is essential, the load indivisible and no alternative vehicles are available.

c) **Vehicle Weights**

(i) The Harbours Route

Under the terms of the Ordinance, rigid vehicles up to a maximum of 20 tons gross laden weight can use the harbours route, regardless of the number of axles. The maximum axle loading permitted is 9 tons so, in effect, a two axled rigid vehicle is limited to 18 tons gross laden weight.

Articulated vehicles weighing up to 32 tons are also permitted to travel on the harbours route subject to regulations governing the numbers of axles and their spacing.

ii) Island Wide Circulation

All articulated and rigid vehicles are limited to a maximum of 14 tons gross laden weight regardless of the number of axles and the maximum axle loading is 9 tons. All articulated vehicles have a minimum of three axles, and many of those up to 10.67 metres long have four axles. The weights laid down in the Ordinance for the harbours route were to prevent a vehicle exceeding the nine ton axle limit.

An empty articulated vehicle, conforming to the current length requirement of 10.67 metres weighs approximately 9 to 10 tonnes. Therefore, the maximum weight of the load allowed is only about 4 to 5 tonnes. Some vehicles carrying containers that have been loaded outside the Island in all probability already exceed the weight limit of 14 tonnes.

N.B. For the purposes of this policy letter it has been assumed that one metric ton is the equivalent of one imperial ton – a metric tonne is actually equivalent to 0.9842 imperial tons.

3. Consultations

In preparing this policy letter, the Committee sought the views of 38 private sector companies who are affected by and have an interest in the proposals. In addition, the Committee also wrote to all of the Island's Douzaines and a number of States Committees.

The Committee is very grateful for the comments and suggestions it received during the consultation process, which assisted the Committee in refining its proposals.

4. Vehicle Widths – Justification For Changes

The Committee has been advised that vehicles such as oil/petrol delivery vehicles, sewage tankers, and many lorries, are no longer available with a chassis manufactured to a specification which conforms to the Island's width requirements. The alternatives are either to pay considerably increased costs to have purpose built chassis constructed or to purchase vehicles which conform to a standard width of 2.31 metres and to then "cut" them down to size. This invariably involves reducing the size of the chassis, cutting down the size of the wheel nut bolts and so on.

Whilst the Committee has previously been advised that such measures are not necessarily dangerous, they cannot be described as good practice and can lead to greater wear and tear on tyres in particular. Most manufacturers are now refusing to allow their vehicles to be modified.

The Committee believes that by permitting a small increase of 7cm in the Island's current vehicle width requirement, a greater choice of standard vehicles will be available to local businesses which will be less expensive and safer. These should not have any significant detrimental effect on the environment and will help to contain the costs of local companies and the charges which they make for their services.

In addition, the Committee is recommending that the circulation of wider buses up to 2.49 metres (an increase of 18.42 cm) is permitted on suitable routes approved by the Committee. This would facilitate the acquisition, in the future, of less expensive, higher quality and more comfortable vehicles.

Finally the Committee is recommending an increase in the width of vehicles up to 2.6 metres which, by permit, can travel on the harbours route and on approved routes to the industrial sites at Northside, Lowlands, **La Hure Mare**, Braye Road and Pitronnerie Road because this is the standard width of refrigerated trailers now manufactured and in use in the UK and elsewhere. An allowance is included in this measurement for refrigerated trailers to provide the necessary insulation to maintain the temperature at a required level. This proposal corresponds to the one in the next section governing vehicle lengths where the Committee is recommending an increase in vehicle lengths up to 16.55 metres overall to accommodate the now standard production lengths of trailers which is 13.72 metres.

It should be emphasised however, that at the present time the majority of oversize vehicles in use measure 2.5 metres in width and the Committee does not expect this to change other than in respect of some refrigerated trailers.

5. **Vehicle Lengths – Justification For Changes**

There are many occasions each year where local haulage companies have to hire additional trailers in order to cope with increased seasonal demands for the delivery and distribution of goods. Often, the available trailers do not meet the Island's requirements governing oversize vehicles because they have to be hired from businesses based in the UK or further afield and it is entirely impractical to have additional trailers constructed at short notice which can legally be used in the Island.

The Committee has been informed that 12.19 metre trailers currently in use in the Island are no longer manufactured. The standard articulated vehicle now used throughout Europe measures 16.55 metres in length (comprising the tractor cab and trailer) and 2.5 metres in width except for refrigerated vehicles which are normally 2.6 metres wide allowing for the insulation material. These vehicles generally comprise a tractor cab and a 13.72 metre trailer.

Goods are already transported in the UK virtually exclusively in vehicles measuring 16.55 metres in length and are shipped by roll on/roll off ferry to Guernsey. If the Committee's proposals are not accepted by the States, this will necessitate "breaking bulk", either in the UK or Guernsey at considerable cost, particularly as a separate fleet of refrigerated trailers would be required. Such costs would be unacceptable to the supermarkets, suppliers or consumers.

Although it might still be possible to have trailers manufactured for use by companies serving the Island in order to meet the Island's existing requirement, given the relatively small numbers involved, this would involve considerable additional costs when compared to the purchase price of a "standard" 13.72 metre trailer.

The proposed larger vehicles could be used without any difficulty along the "harbours route" and the approved routes to and from the industrial sites at Northside, Lowlands, La Hure Mare, Braye Road and Pitronnerie Road at the approved times and would provide a more cost effective service for local hauliers and Freight companies. The vehicles would still have to meet the Island's weight requirements and would not be permitted to circulate anywhere else in the Island except under escort as at present.

By permitting vehicles of up to 16.55 metres (comprising the tractor cab and trailer) to circulate on the harbours route and to/from the industrial sites via the network of approved routes, this will provide companies with greater flexibility and the ability to carry increased loadings. This should in turn, help to reduce the number of journeys which are required to be made by such vehicles.

In addition, the Committee is proposing that the legislation is amended to enable a combination of a towing vehicle and trailer to circulate on the Island's roads up to a combined maximum length of 12.19 metres and subject to neither the towing vehicle nor the trailer exceeding a length of 9.45 metres. At the present time permits to facilitate movements of such vehicles are required and are always approved. The Committee therefore wishes to take the opportunity to reduce the unnecessary bureaucracy involved in the issuing of these permits.

6. **Vehicle Weights – Justification for Changes**

a) Harbours Route

In 1970, when the Ordinance was enacted, 32 tonnes was the maximum weight for articulated vehicles in the United Kingdom. The numbers of axles and their spacings were adopted from the UK regulations in place at the time and the Island's legislation in this area has not been amended.

Since 1970, the UK (and European) maximum weights have risen, firstly to 38 tonnes then to the current limit of 41 tonnes. In order to comply with the 41 tonne limit, a vehicle must have six axles, of which all the trailer axles and at least the drive axle of the tractor unit must be air sprung (commonly known as "road friendly suspension").

On 1st February 2001, the UK implemented a new weight limit of 44 tonnes which is already applicable throughout Europe. The axle spacings will retain the same factors as the current requirements for 41 tonne vehicles. The main change is that there will be a stipulation that low pollution engines must power the vehicles, so that they will be more environmentally friendly. A low pollution engine is defined as an engine which:

- is fuelled solely by gas; or
- is fuelled predominantly by gas and has a minimum gas tank capacity of 400 litres; or
- being a diesel engine, complies with the requirements for the emission of gaseous and particulate pollutants specified in the relevant EU directive.

The majority of the large articulated trailers using the harbours route are loaded outside the Island and brought in by roll on/roll off ferry. The remainder are loaded locally with goods for export from the Island. In practice, haulage companies outside of the Island are almost certainly loading trailers with a gross weight which exceeds the current Island limit of 32 tons.

In order to regularise what is already happening in practice and in recognition of the changes occurring in the UK and Europe which the Island can no longer ignore, the Committee is proposing to increase the weight restrictions on the harbours route to 44 tonnes subject to such vehicles complying with the above mentioned criteria This is in the knowledge that such vehicles would be causing no more wear and tear to the road surface than those which are operating at a 32 ton weight limit. **It is not the overall weight of a vehicle which is important with regard to the road surface, but rather the individual axle weights.**

The diagrams below show the effect of the axle weight restrictions. Diagram (a) shows the heaviest vehicle currently able to circulate on the harbours route with the heaviest axle of 8.11 tonnes. The second diagram (b) shows a 38 tonne articulated vehicle with 5 axles, which was the former UK maximum. It has one axle rated at 9.63 tonnes, which is 630kg over the Island limit.

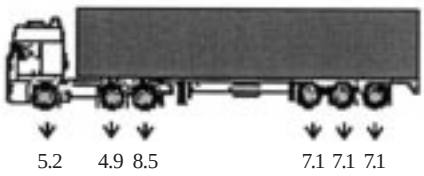
32 Tonne Artic – 5 Axles

(a)

38 Tonne Artic – 5 Axles

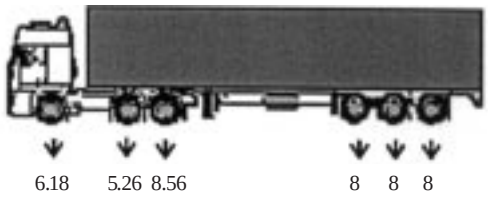
(b)

The next two diagrams show firstly the current UK maximum of 41 tonnes (c) and secondly (d) the new limit of 44 tonnes which came into force in the UK in February 2001. The maximum axle weight on the 44 tonne vehicle is well within the Island's 9 tonne weight limit.



41 Tonne Artic – 6 Axles

(c)



44 Tonne Artic – 6 Axles

(d)

b) Island Wide

The existing 14 tonne weight limit for the Island wide circulation of articulated vehicles is no longer realistic and in some cases is not being followed.

Increasing the permitted gross laden weights to 24 tonnes for three axled vehicles and 28 tonnes for vehicles with four or more axles, whilst retaining the existing 9 tonne loading per axle, would **not** lead to bigger vehicles than at present, but would enable heavier loads to be carried without unacceptable wear and tear on the roads.

Not only would this regularise what is already happening but in addition, companies would be encouraged to use more of these vehicles which should help contain their costs by enabling the distribution of more goods with fewer vehicle movements.

The Committee can by permit, allow the movement of vehicles with a gross laden weight which exceeds the 14 tonne limit but not the 9 tonne axle limit. For example, an articulated vehicle with a gross laden weight of 24 tonnes with 3 axles or 28 tons with 4 axles would fall well within the 9 tonnes loading per axle.

The proposed changes would also assist with the reduction in the number of permits issued by the Committee and the associated bureaucracy for its customers.

Finally, although it has not been possible for the Committee to quantify, it is inevitable that the additional costs associated with the purchase and use of vehicles "made to measure" in order to meet the Island's existing legal and policy requirements will be passed on to the customer, thereby raising the prices of imported goods.

Appendix 2 sets out details of the main suppliers of new and second hand large goods vehicles (LGVs) together with other relevant matters.

7. **Proposals**

The Committee is proposing that the existing legislation and associated policy framework approved by the States which regulates the movement of oversize vehicles in the Island is made slightly more flexible to enable:–

(i) the Island wide circulation of any vehicle up to a maximum width of 2.31 metres;

(ii) buses up to 2.49 metres wide to circulate on those routes deemed suitable by the Committee;

(iii) vehicles up to 2.6 metres wide to travel by permit along the "harbour route" and the approved routes to and from the industrial sites at North Side, Lowlands, La Hure Mare, Braye Road and Pitronnerie Road,

(iv) articulated vehicles up to 16.55 metres in length to travel by permit along the "harbours route" and the approved routes to and from the industrial sites at North Side, Lowlands, La Hure Mare, Braye Road and Pitronnerie Road at the approved times;

(v) the movement of a towing vehicle and drawbar trailer up to a combined maximum length of 12.19 metres and subject to the towing vehicle or trailer not exceeding a length of 9.45 metres;

(vi) the movement of articulated vehicles up to 44 tonnes on the harbours route provided such vehicles:

- have a minimum of six axles, of which all the trailer axles and at least the drive axle of the tractor unit is air sprung (commonly known as "road friendly suspension"); and

- are powered by low pollution engines;

(vii) the Island wide circulation of articulated vehicles weighing:

- Up to 24 tonnes provided the vehicle has three axles; or

- Up to 28 tonnes provided the vehicle has four or more axles.

N.B. Proposals (iii) and (iv) are linked – these are the corresponding width and length measurements of vehicles used throughout the EU, UK, Isle of Man, Isle of Wight and Jersey.

In addition to the above, the Committee is recommending the following minor changes to the existing legislation:–

(viii) Section 3 of the Road Traffic (Speed Limits and Trailers) Ordinance, 1959, prohibits motor vehicles from towing more than one trailer unless a permit has been issued by the Committee. This is the only section which remains within the Ordinance and in order to reduce the number of Ordinances, the Committee proposes to repeal the 1959 Ordinance and to consolidate Section 3 into the Road Traffic (Construction and Use of Motor Vehicles) Ordinance, 1970.

(ix) At the present time the Ordinance requires that a vehicle must not tow a trailer which has an unladen weight exceeding 2 cwt unless the trailer is fitted with an efficient braking system or unless a permit has been issued by the Committee. (Agricultural trailers up to 4 tons laden weight and broken down vehicles on tow are exempt).

The Committee is recommending an amendment to the Ordinance to prohibit a vehicle from towing a trailer with a laden weight which exceeds half the kerbside weight of the towing vehicle unless a permit has been issued by the Committee or the trailer is equipped with an efficient braking system. This proposal will reflect the legislation which already exists in the UK and in other jurisdictions.

The recommendation is made on safety grounds to prevent, for example, a Citroen 2CV with a kerbside weight of 12 cwt towing an unbraked trailer with an unladen weight of 2 cwt carrying a 10 cwt load which would be equivalent to the weight of the towing vehicle and consequently dangerous.

(x) All references to imperial weights and measurements in the Ordinance are to be converted into metric weights and measurements.

8. **Recommendations**

The Committee recommends the States to agree to amend the existing legislation and associated policy framework which regulates the movement of oversize vehicles as set out in section 7 of this policy letter.

I should be grateful if you would lay this matter before the States with appropriate propositions including one directing the preparation of the necessary legislation.

I am, Sir,

Your obedient Servant,

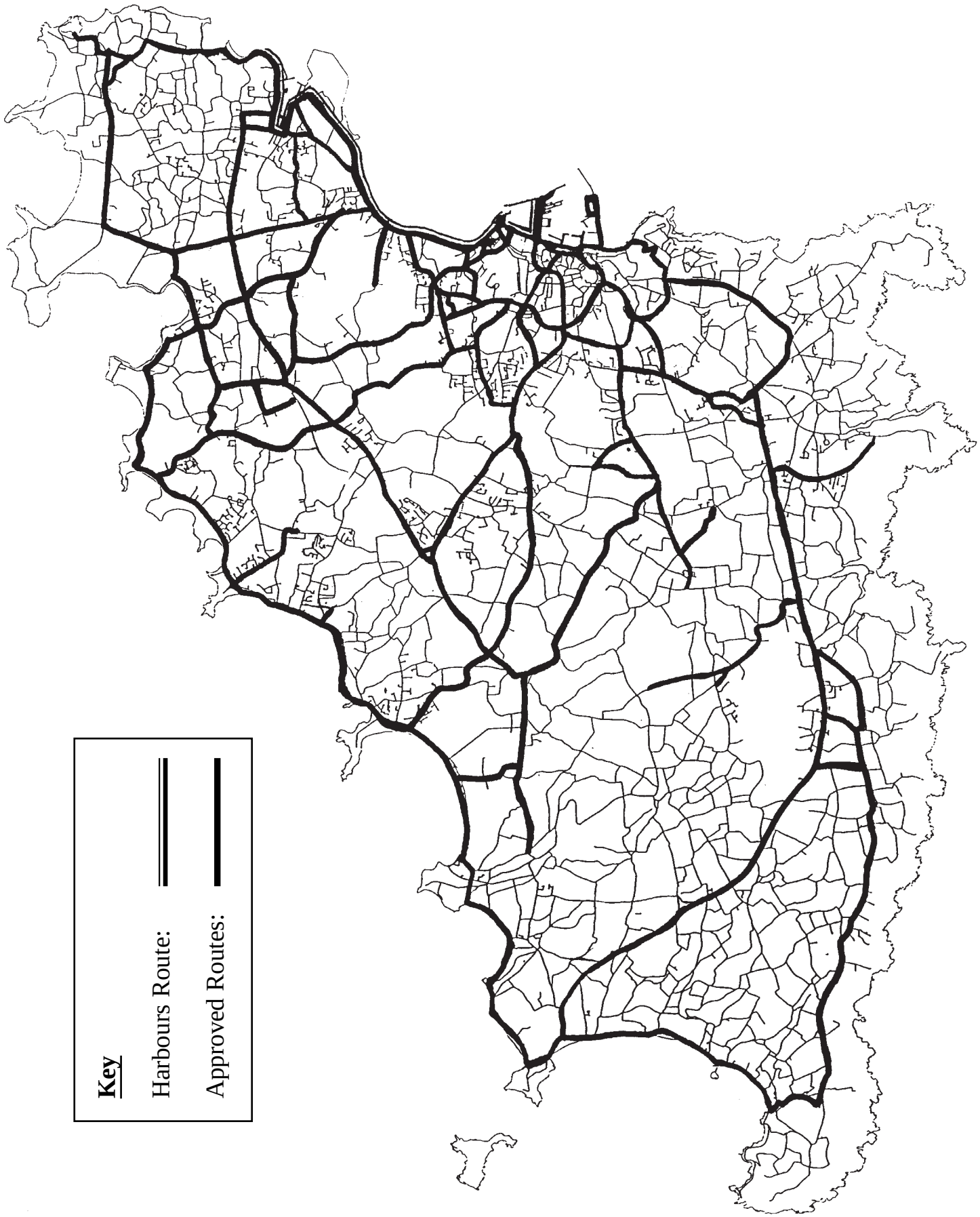
P. N. BOUGOURD,

President,

States Traffic Committee.

Appendix 1

The Approved Route Network



AVAILABILITY OF VEHICLES SATISFYING THE CURRENT AND PROPOSED WIDTH LIMITS FOR ISLAND WIDE CIRCULATION

New vehicles

Local Supplier	Manufacturer	Existing width limit 2.2 metres (7ft 4ins)	Proposed width limit 2.3 metres (7ft 6 3/4 ins)
Rabey's/VMW	Leyland/Daf	Impossible to convert because it would mean cutting and welding the front axle	Readily available
Rabey's/VMW	Renault 12 - 14 tonne	No modifications are necessary	Readily available
Rabey's/VMW	Renault 14 - 16 tonne (plated at 14 tonnes for Island use)	Special dished wheels are fitted to rear to narrow the track. The front wheel nuts are tapered to enable the wheels to be fitted slightly more inboard. This leaves 3/4 ins of surplus wheel stud length, which is cut off. Cosmetic bodywork changes are also carried out to the front wings and step etc.	Readily available
Bougourd Ford	Iveco	Now impossible to obtain, Iveco would withdraw the local franchise if their vehicles were modified in order to reduce them in width	Readily available, and are supplied to Jersey regularly
Bougourd Ford	Seddon-Atkinson	Able to supply factory modified 18 tonne chassis at 7ft 2ins wide, de-rated to 14 tonnes and fitted with narrow refuse vehicle axles. Fitting narrow axles increases the turning circle and make the vehicles less manoeuvrable.	Readily available

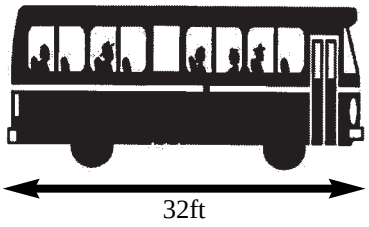
AVAILABILITY OF VEHICLES SATISFYING THE CURRENT AND PROPOSED WIDTH LIMITS FOR ISLAND WIDE CIRCULATION

Imported second hand

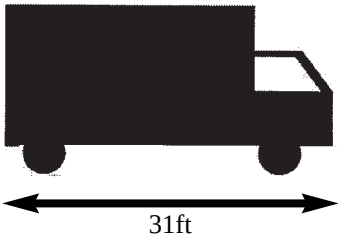
Local Supplier	Manufacturer	Existing width limit 2.2 metres (7ft 4ins)	Proposed width limit 2.3 metres (7ft 6 3/4 ins)
Commercial Trade Centre	Any make Usually older vehicles	Impossible to obtain any used vehicles which do not require reducing in width. Modifications cost minimum £1500 often much more, and compromise vehicle safety This also applies to some 7 1/2 tonne vehicles.	Readily available
Vale Commercial Centre	Any make. Usually older vehicles, mostly Leylands	Impossible to obtain any used vehicles which do not require reducing in width. Older model Leylands have their front hubs and brake drums machined (including the wheel bearings) and the wheel studs cut shorter. The wheel nuts then often have to be ground down a little. This is a minimum of £600, then 4 special rear wheels are supplied at £100 each so the total cost is at least £1,000. Newer Leyland models cannot be reduced in width in this manner.	Readily available (most of this size of vehicle measure between 7ft 5ins and 7ft 6ins

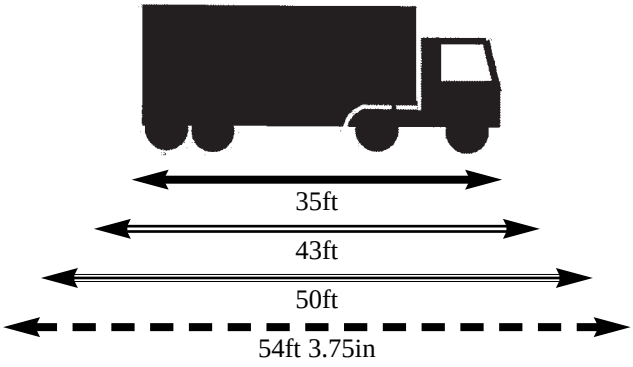
Appendix 3

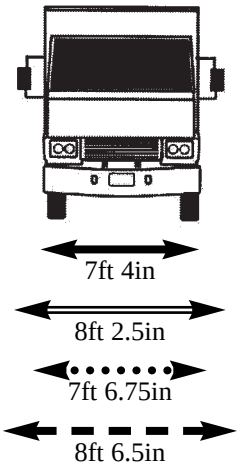
Current and Proposed Vehicle Size Limits

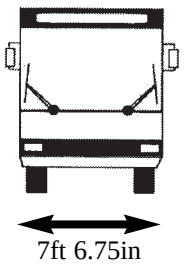


Current Island Wide Limit
Current Harbours Route Limit
Current Bulwer Avenue Limit
Proposed Harbours Route Limit
Proposed Island Wide Limit









Appendix 4

Oversize Vehicles

Vehicle Widths	
Imperial	Metric
7’ 4”	2.24m
7’ 6 3/4”	2.31m
8’ 2”	2.49m
8’ 2 1/2”	2.5m
8’ 6 1/2”	2.6m

Vehicle Lengths	
Imperial	Metric
31’	9.45m
32’	9.75m
35’	10.67m
40’	12.19m
43’	13.11m
45’	13.72m
50’	15.24m
54’ 3 3/4”	16.55m

The States are asked to decide:–

VIII.— Whether, after consideration of the Report dated the 16th March, 2001, of the States Traffic Committee, they are of opinion:–

1. That the existing legislation and associated policy framework which regulates the movement of oversize vehicles shall be amended as set out in section 7 of that Report.

2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE IMPORTATION OF MEAT AND MEAT PRODUCTS (NO.3) ORDER, 2001

In pursuance of the provisions of section 13 of the Animals and Animal Products (Import and Export) Ordinance, 1952, as amended, I lay before you herewith the Importation of Meat and Meat Products (No.3) Order, 2001, made by the States Agriculture and Countryside Board on the 13th March, 2001.

EXPLANATORY NOTE

This Order allows the Board to control, through a system of licensing, the importation into the Island of meat and meat products from cattle, sheep, pigs and goats, from:

a) the United Kingdom,

b) the Republic of Ireland,

c) any other Member State of the European Community,

d) the Isle of Man,

e) Jersey; and

f) specified other countries.

THE ANIMALS (EXTENSION OF DEFINITION) ORDER, 2001

In pursuance of the provisions of section 13 of the Animals and Animal Products (Import and Export) Ordinance, 1952, as amended, I lay before you herewith the Animals (Extension of Definition) Order, 2001, made by the States Agriculture and Countryside Board on the 13th March, 2001.

EXPLANATORY NOTE

This Order extends the provisions of the Animals and Animal Products (Import and Export) Ordinance, 1952, to the importation of the meat and meat products from the specified animals.

THE ELECTRONIC TRANSACTIONS (EXEMPTIONS) ORDER, 2001

In pursuance of the provisions of section 21(1)(c) of the Electronic Transactions (Guernsey) Law, 2000, I lay before you herewith the Electronic Transactions (Exemption) Order, 2001, made by the States Advisory and Finance Committee on the 13th March, 2001.

EXPLANATORY NOTE

This Order specifies the transactions and other matters that are generally excluded from the application of the relevant provisions of the Electronic Transactions (Guernsey) Law, 2000 that aim at facilitating electronic transactions and liberalising requirements of form. At least for the time being, the transactions and other matters specified in this Order must still be transacted and done without the benefit of making use of electronic means or electronic form.

DE V. G. CAREY
Bailiff and President of the States

The Royal Court House,
Guernsey.
The 6th April, 2001.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 25TH DAY OF APRIL, 2001

The States resolved as follows concerning Billet d'Etat No. VIII
dated 6th April, 2001

THE GAMBLING (CHANNEL ISLANDS LOTTERY) (AMENDMENT) ORDINANCE, 2001

I. To approve the draft Ordinance entitled "The Gambling (Channel Islands Lottery) (Amendment) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

THE PUBLIC HOLIDAYS ORDINANCE, 2001

II. To approve the draft Ordinance entitled "The Public Holidays Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

THE LIMITED PARTNERSHIPS (GUERNSEY) (AMENDMENT) LAW, 1997 (COMMENCEMENT) ORDINANCE, 2001

III. To approve the draft Ordinance entitled "The Limited Partnerships (Guernsey) (Amendment) Law, 1997 (Commencement) Ordinance, 2001", and to direct that the same shall have effect as an Ordinance of the States.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 11TH DAY OF MAY, 2001

(Meeting adjourned from 26th April, 2001)

STATES ADVISORY AND FINANCE COMMITTEE

THE REHABILITATION OF OFFENDERS

IV. After consideration of the Report dated the 28th February, 2001, of the States Advisory and Finance Committee:-

1. That legislation shall be prepared on the lines of the Rehabilitation of Offenders (Jersey) Law, 200-, subject to appropriate modifications and adaptations.

2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

STATES ADVISORY AND FINANCE COMMITTEE

PAROCHIAL COLLECTION OF REFUSE

V. After consideration of the Report dated the 22nd March, 2001, of the States Advisory and Finance Committee:-

1. That the Parochial Collection of Refuse (Guernsey) Law, 1958, as amended, be extended or replaced so that the system currently applicable under that Law applies throughout the Island subject to the modifications that:

(a) the expression "dwelling house" shall be defined as including "self-catering tourist premises" in the Tax on Rateable Values (Guernsey) Ordinance, 1976, as amended;

(b) the requirement for the compilation, revision and exhibition of a Register of dwellings and tenement houses shall be repealed;

(c) applications for permission to levy a Refuse Rate may be made at any time of the year and in respect of financial years which do not coincide with the calendar year;

(d) the system will apply to all Parishes from the commencement of each Parish's financial year occurring next after the registration in the Royal Court of the amendment to, or replacement of, the 1958 Law;

(e) the requirement for a Parish Meeting to resolve that the system to be applied to that Parish shall be removed.

(f) for the avoidance of doubt, any Douzaine may enter into private agreements with individual occupiers of commercial premises to include their refuse in the general collection upon payment of an agreed charge.

2. That Article I(p) of the Loi relative à la Taxation Paroissiale of 1923, the Loi relative au Rebut de Maisons dans certain districts de la Paroisse de Saint Samson of 1909 and the Refuse (Forest) (Guernsey) Law, 1957, shall be repealed.

3. That the Tax on Rateable Values (Guernsey) Ordinance, 1976, as amended, shall be further amended to separate "self-catering tourist premises" from "other tourist accommodation".

4. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

STATES BOARD OF ADMINISTRATION

LE FOULON VALE CREMATORIUM AND CHAPEL - ALTERATIONS AND EXTENSION

VI. After consideration of the Report dated the 20th March, 2001, of the States Board of Administration:-

1. To authorise the extension/refurbishment of the Le Foulon Vale Chapel and the replacement of the cremator as described in that Report at a total cost, inclusive of the following sums:

£300.00 for site investigation costs;

£31,000.00 for possible increased costs during the contract period;

£9,600.00 for Consultant's fees;

£2,000.00 for moving one grave and temporary storage of ashes from columbarium; and

£5,000.00 for furniture and equipment;

not exceeding £928,039.01.

2. To authorise the States Board of Administration to accept the tender in the revised sum of £880,139.01 submitted by MGF Limited for the carrying out of the above works.

3. To vote the States Board of Administration a credit of £928,039.01 to cover the cost of the above works, which sum shall be taken from that Board's allocation for capital expenditure.

STATES HOUSING AUTHORITY

DEVELOPMENT OF SHELTERED HOUSING AT ROSAIRE AVENUE

VII. After consideration of the Report dated the 21st March. 2001, of the States Housing Authority:-

1. To agree in principle that the site of the former Girls' Grammar School at Rosaire Avenue shall be developed to provide predominantly sheltered housing.

2. That the States Housing Authority shall invite developers/operators to produce schemes predominantly for the development of "affordable" sheltered housing for purchase or rent, including, if appropriate, "extra care" units, on the Rosaire Avenue site, on the basis that that Authority will offer financial assistance with the capital costs of that development.

3. That the means and level of assistance to be provided to the recommended tenderer shall be subject to the final approval of the States Advisory and Finance Committee, provided that the total cost to the States of the assistance so approved shall not exceed the amounts contemplated by that Report.

4. That the States Advisory and Finance Committee shall have regard to the requirement for any financial assistance by way of capital funding or interest subsidy to be paid to the developer/operator of the recommended scheme for the Rosaire Avenue site and any future sheltered housing schemes on States-owned land when advising the States on the capital and the revenue allocations to the States Housing Authority.

STATES TRAFFIC COMMITTEE

REGULATION OF OVERSIZE VEHICLES

VIII. After consideration of the Report dated the 16th March, 2001, of the States Traffic Committee:-

To grant leave to the President of the States Traffic Committee to withdraw this Article.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE IMPORTATION OF MEAT AND MEAT PRODUCTS (NO.3) ORDER, 2001

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THE ELECTRONIC TRANSACTIONS (EXEMPTIONS) ORDER, 2001

In pursuance of the provisions of section 21(1)(c) of the Electronic Transactions (Guernsey) Law, 2000, The Electronic Transactions (Exemption) Order, 2001, made by the States Advisory and Finance Committee on the 13th March, 2001, was laid before the States.

K.H. TOUGH,
HER MAJESTY'S GREFFIER