



# BILLET D'ÉTAT

XXIII  
2002

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WEDNESDAY, 27th NOVEMBER, 2002

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# ***B I L L E T     D ' É T A T***

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

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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 27th NOVEMBER, 2002,** at 9.30 a.m.

1943

**PROJET DE LOI**

ENTITLED

**THE MERCHANT SHIPPING (BAILIWICK OF GUERNSEY) LAW, 2002**

The States are asked to decide:

I.—Whether they are of opinion to approve the Projet de Loi entitled “The Merchant Shipping (Bailiwick of Guernsey) Law, 2002”, and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

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**PROJET DE LOI**

ENTITLED

**THE MATRIMONIAL CAUSES (AMENDMENT) (GUERNSEY) LAW, 2002**

The States are asked to decide:

II.- Whether they are of opinion to approve the Projet de Loi entitled “The Matrimonial Causes (Amendment) (Guernsey) Law, 2002”, and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

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**PROJET DE LOI**

ENTITLED

**THE ATTENDANCE AND INVALID CARE ALLOWANCES (GUERNSEY)  
(AMENDMENT) LAW, 2002**

The States are asked to decide:

III.—Whether they are of opinion to approve the Projet de Loi entitled “The Attendance and Invalid Care Allowances (Guernsey) (Amendment) Law, 2002”, and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

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**THE ATTENDANCE AND INVALID CARE ALLOWANCES ORDINANCE, 2002**

The States are asked to decide:

IV.—Whether they are of opinion to approve the draft Ordinance entitled “The Attendance and Invalid Care Allowances Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

**THE HEALTH SERVICE (BENEFIT) (AMENDMENT) ORDINANCE, 2002**

The States are asked to decide:

V.—Whether they are of opinion to approve the draft Ordinance entitled “The Health Service (Benefit) (Amendment) Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

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**THE FAMILY ALLOWANCES ORDINANCE, 2002**

The States are asked to decide:

VI.—Whether they are of opinion to approve the draft Ordinance entitled “The Family Allowances Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

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**THE SUPPLEMENTARY BENEFIT (IMPLEMENTATION) (AMENDMENT) ORDINANCE, 2002**

The States are asked to decide:

VII.—Whether they are of opinion to approve the draft Ordinance entitled “The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

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**THE CENTRAL OUTDOOR ASSISTANCE BOARD REGULATIONS (AMENDMENT) ORDINANCE, 2002**

The States are asked to decide:

VIII.—Whether they are of opinion to approve the draft Ordinance entitled “The Central Outdoor Assistance Board Regulations (Amendment) Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

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**THE HEALTH SERVICE (OPHTHALMIC BENEFIT) (REPEAL) ORDINANCE, 2002**

The States are asked to decide:

IX.—Whether they are of opinion to approve the draft Ordinance entitled “The Health Service (Ophthalmic Benefit) (Repeal) Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

**THE HEALTH SERVICE (BENEFIT) (ANNUAL GRANT) ORDINANCE, 2002**

The States are asked to decide:

X.—Whether they are of opinion to approve the draft Ordinance entitled “The Health Service (Benefit) (Annual Grant) Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

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**THE HEALTH SERVICE (ALDERNEY HOSPITAL BENEFIT)  
(AMENDMENT) ORDINANCE, 2002**

The States are asked to decide:-

XI.—Whether they are of opinion to approve the draft Ordinance entitled “The Health Service (Alderney Hospital Benefit) (Amendment) Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

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**THE HEALTH SERVICE (SPECIALIST MEDICAL BENEFIT) (AMENDMENT)  
ORDINANCE, 2002**

The States are asked to decide:

XII.- Whether they are of opinion to approve the draft Ordinance entitled “The Health Service (Specialist Medical Benefit) (Amendment) Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

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**THE DRIVING LICENCES (GUERNSEY) (AMENDMENT) ORDINANCE, 2002**

The States are asked to decide:

XIII.—Whether they are of opinion to approve the draft Ordinance entitled “The Driving Licences (Guernsey) (Amendment) Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

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**THE FIREARMS (AMENDMENT) ORDINANCE, 2002**

The States are asked to decide:

XIV—Whether they are of opinion to approve the draft Ordinance entitled “The Firearms (Amendment) Ordinance, 2002”, and to order that the same shall have effect as an Ordinance of the States.

**STATES COMMITTEE FOR HOME AFFAIRS**

**AMENDMENT OF THE PRISON ADMINISTRATION (GUERNSEY) ORDINANCE, 1998**

The President  
States of Guernsey  
Royal Court House  
St Peter Port

15 October 2002

Dear Sir

**AMENDMENT OF THE PRISON ADMINISTRATION (GUERNSEY) ORDINANCE, 1998**

A recent judgement of the European Court of Human Rights in respect of the United Kingdom found that, in some circumstances, disciplinary proceedings in UK prisons should be dealt with as criminal proceedings. In these circumstances, offences should not be dealt with by Prison Governors, who could not be classified as independent and impartial tribunals, and prisoners should be entitled to legal representation. In England it has been decided that Deputy District Judges should adjudicate in cases, which may warrant additional time being served by a prisoner as a result of disciplinary procedures.

Whilst Guernsey was not a party to the case considered by the European Court of Human Rights, the Law Officers have advised that the provisions of the Prison Administration (Guernsey) Ordinance, 1998 could similarly be found to be deficient. The Committee for Home Affairs accordingly instructed the Prison Governor to suspend, for the time being, consideration of any disciplinary procedures, which could warrant additional time being served by a prisoner.

On the advice of the Law Officers and after consulting you, Sir, the Committee for Home Affairs has concluded that the States should be asked to amend the Prison Administration (Guernsey) Ordinance, 1998 to provide

- firstly, that serious offences against discipline should be dealt with by a Lieutenant Bailiff or Assistant Magistrate appointed by the Bailiff as an adjudicator; and
- secondly, that in such cases, the prisoner should be entitled to legal representation.

A draft amendment Ordinance has been prepared and I am grateful to you, Sir, for agreeing that, in view of the urgency of introducing the new arrangements, this could be placed before the States in the same Billet D'Etat as this policy letter.

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

Yours faithfully,

M W TORODE,

President,  
States Committee for Home Affairs.

**(NB The States Advisory and Finance Committee supports the proposals.)**

The States are asked to decide:—

XV.—Whether, after consideration of the Report dated the 15<sup>th</sup> October, 2002, of the States Committee for Home Affairs, they are of opinion:—

1. That the Prison Administration (Guernsey) Ordinance, 1998, shall be amended to provide:—
  - (a) that serious offences against discipline shall be dealt with by a Lieutenant Bailiff or Assistant Magistrate appointed by the Bailiff as an adjudicator; and
  - (b) that in such cases, the prisoner shall be entitled to legal representation.
2. To approve the draft Ordinance entitled “The Prison Administration (Amendment) Ordinance, 2002”, and to direct that the same shall have effect as an Ordinance of the States.

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#### **STATES PUBLIC ASSISTANCE AUTHORITY**

##### **ST. SAMPSON’S PAROCHIAL OUTDOOR ASSISTANCE BOARD**

##### **NEW MEMBER**

The States are asked:—

XVI.—To elect a member of the St. Sampson’s Parochial Outdoor Assistance Board to complete the unexpired portion of the term of office of Mr. J. E. Foster, who has resigned as a member of that Board, namely, to the 31st May, 2003.

(NB Only a sitting member of the States or a Jurat Rector or Douzenier resident in St. Sampson’s is eligible for election)

# STATES BOARD OF ADMINISTRATION

## ST. PETER PORT HARBOUR - NO. 1 RO-RO LINKSPAN REFURBISHMENT

The President  
States of Guernsey  
The Royal Court House  
St Peter Port  
Guernsey  
GY1 2PB

11 October 2002

Dear Sir

### ST PETER PORT HARBOUR - NO 1 RO-RO LINKSPAN REFURBISHMENT

No 1 Ro-Ro linkspan is located on the west side of the 'New' Jetty in St Peter Port Harbour and was commissioned in 1987. The installation of the linkspan formed part of a design-and-build contract let to Miller & Baird (CI) Ltd in 1985 (Billet d'État XXIX 1985) which also included for a new fendering system for the jetty and the construction of the Inter-Island pier.

During 2000 various surveys on the condition of the paintwork of the linkspan, both internally and externally, confirmed the Harbour Authority's view that the structure required extensive cleaning by gritblasting and washing followed by repainting. Minor repairs and improvements to the structure were also considered necessary.

The Board of Administration with the approval of the Advisory and Finance Committee commissioned a specialist paint consultant to advise on the problems relating to the linkspan and Scientific and Technical Services Ltd of Blaydon, Tyne and Wear, was duly appointed to prepare tender documents for the necessary works and to evaluate tenders when they were received. A sum of £10,670 was approved for this purpose. It should be noted that the aforementioned company was familiar with the linkspan having supervised the application of its paint system during its construction in Arklow, Eire, in 1986.

Tender documents were issued to a select list of painting contractors in April 2002 and the following tenders were received:

- |  |          |
|--|----------|
| • Howlett Marine and Industrial Services Ltd, Wallsend | £260,336 |
| • Nor-Clean, Jarrow                                    | £358,239 |
| • Pyeroy Group, Gateshead                              | £456,404 |

Interserve Industrial Services Ltd, Middlesbrough, was also invited to tender but failed to do so.

On examination of the tenders it was apparent that an error had been made in the lowest tender submitted. The matter was discussed with the Contractor and a revised tender sum of £276,364 was submitted.



It is difficult to assess the extent of the minor repairs and improvements to the structure mentioned earlier in this policy letter - the extent of the work will only be apparent after cleaning and gritblasting operations - and it is therefore recommended that a sum of £30,000 be added to the revised tender sum as a contingency item to cover for any additional works.

The contract period for the work is 10 weeks and in order to keep the disruption to harbour operations to a minimum work will commence, subject to States approval, in January 2003. Supervision of the works will be undertaken by the Harbour Authority in conjunction with the Engineering Advisor of Guernsey Technical Services.

The Board recommends the States:

1. to approve the refurbishment of No 1 Ro-Ro linkspan in St Peter Port Harbour at a cost not exceeding £306,364.
2. to authorise the Board of Administration to accept the tender from Howlett Marine and Industrial Services Ltd in the sum of £276,364 to which sum should be added a contingency item of £30,000.
3. to vote the Board of Administration a credit of £306,364 to cover the cost of the above project, which sum should be charged as capital expenditure in the accounts of the Harbour of St Peter Port.

The Board should be grateful if you would be good enough to lay this matter before the States with appropriate propositions.

Yours faithfully

R C BERRY

President

States Board of Administration

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**(NB The States Advisory and Finance Committee supports the proposals.)**

The States are asked to decide:—

XVII.—Whether, after consideration of the Report dated the 11th October, 2002, of the States Board of Administration, they are of opinion:—

1. To approve the refurbishment of No. 1 Ro-Ro linkspan in St. Peter Port Harbour at a total cost, inclusive of a sum of £30,000 as a contingency sum, not exceeding £306,364.00
2. To authorise the States Board of Administration to accept the tender in the sum of £276,364.00 submitted by Howlett Marine and Industrial Services Limited for the above work.
3. To vote the States Board of Administration a credit of £306,364.00 to cover the cost of the above project, which sum shall be charged as capital expenditure in the accounts of the Harbour of St. Peter Port.

**STATES BOARD OF HEALTH**

**NEW MENTAL HEALTH LEGISLATION**

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

25 October 2002

Dear Sir,

**NEW MENTAL HEALTH LEGISLATION**

**Introduction**

1. Guernsey's current mental health legislation, The Mental Treatment Law (Guernsey), 1939, as amended, is in need of updating in the light of developments elsewhere and taking fully into account the incorporation into domestic law, by the Human Rights (Bailiwick of Guernsey) Law, 2000, of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
2. Since our local legislation was enacted, England and Wales have introduced new legislation twice (in 1959 and 1983). The Mental Health Act 1983 is currently being revised and a number of policy directives affecting both the delivery of mental health services and mental health legislation have been introduced over the last decade.
3. Although considerably outdated, Guernsey's present mental health legislation is attractive by virtue of its relative simplicity, in comparison with, for example the Mental Health Act, 1983. The Board considers it sensible to retain this simplicity, while ensuring that new legislation is relevant to the Bailiwick context.
4. The Board has produced proposals for new legislation, modelled on aspects of Guernsey's current legislation which it is felt important to retain, together with certain provisions of the Mental Health Act 1983, some aspects of the reforms being proposed for England & Wales and international best practice.
5. When preparing these proposals, particular attention was paid to the following areas: length of compulsory detention orders, the Consultant Psychiatrist role, the Approved Social Worker, appeals, children and young people, criminal justice orders, community supervision and statutory entitlement to aftercare.
6. New legislation would be administered by the Board of Health and overseen by the Law Officers of the Crown. The involvement of the Law Officers would continue to provide an independent overview of the day-to-day application of the legislation.

Appendix (A) illustrates the core components of the proposals described in this document.

## **Proposed new legislation**

### **Guiding principles**

7. The following principles would act as a guide to how the proposed new legislation is interpreted:
  - informal care and treatment should always be considered before recourse to compulsory powers;
  - Patients should be involved as far as possible in developing and reviewing their own care plans, with the involvement of their nominated person (see Glossary, Appendix 1) where appropriate;
  - the health and safety of the individual patient and the protection of the public are of key importance in determining whether compulsory powers should be imposed;
  - consideration of the long-term needs of the patient;
  - where compulsory powers are used, care and treatment should be in the least restrictive setting consistent with the patient's best interests and safety - and the safety of the public.

### **Definition of Mental Disorder**

8. The legal definition of Mental Disorder should be updated to reflect that proposed for use in England & Wales. Particular categories of mental disorder are not defined and this will help ensure compulsory powers are used flexibly to meet the needs of the patient.
9. Mental disorder will be defined as any disability or disorder of mind or brain, whether permanent or temporary, that results in an impairment or disturbance of mental functioning.

Mental disorder will usually have one, or more, of the following characteristics:

- more than temporary impairment of intellectual functions, demonstrated by a failure of memory, orientation, comprehension or learning capacity;
- more than a temporary alteration of mood of such a degree as to give rise to the patient having a delusional appraisal of his situation, his past or his future, or that of others, or to the lack of any appraisal;
- delusional beliefs, that are persecutory, jealous or grandiose;
- abnormal perceptions associated with delusional misinterpretation of events;
- a serious risk of causing self harm;
- thinking so disordered as to prevent the patient making a reasonable appraisal of his situation or having reasonable communication with others.

### **Criteria for use of compulsory powers**

10. The use of compulsory powers would be based on the following criteria:
  - the patient is formally diagnosed as suffering from mental disorder and is not prepared to accept treatment on a voluntary basis; **and**
  - the mental disorder is of such a nature or degree that it warrants specialist care and treatment. This may be necessary in the best interests of the patient and/or if without care and treatment there is a significant risk of serious harm to other people; **and**
  - a plan of care and treatment will be developed to address the mental disorder. Where use of compulsory powers is primarily in the best interests of the patient then the plan must be anticipated to be of direct therapeutic benefit to the individual. Where compulsory powers are used primarily because of the risk the patient poses to others

then the plan must be considered necessary to treat the underlying mental disorder and/or manage the behaviours arising from that disorder.

The plan would be recorded in a specified format.

### **Admission to Hospital**

11. There is nothing to prevent a patient who requires treatment for mental disorder being admitted to hospital without any application, order or direction rendering him liable to be detained under the proposed legislation. Two categories of hospital admission would therefore be possible:

Voluntary - Where an individual has the capacity to consent to admission and has agreed to it.

Detained - Admitted compulsorily under the provisions of the legislation, irrespective of the capacity to consent.

Where an individual is compliant, but lacks the capacity to consent to hospital admission the views of the nominated person or legally appointed guardian should be sought on proposed treatment, insofar as this is reasonable and practical.

12. There is no reason why a patient cannot remain in hospital once a compulsory detention order has ceased to have effect, if this would be of clinical benefit to them.

### **Nominated Person**

13. New legislation needs to reflect modern family structures and living arrangements and allow a patient to nominate someone to act on their behalf.
14. The Board's proposals seek to address this by introducing the role of 'nominated person'. This will give an individual subject to the provisions of this legislation the right to choose the person they wish to act in their interests and with whom they give consent for information about their care and treatment to be shared. This person may be a family member, carer, friend, neighbour etc. The patient may wish to nominate two or three persons in order of preference - this would provide for cases when the nominated person does not agree to undertake this role, or is not available.
15. The right to exercise a choice regarding the nominated person could be exercised at any time, whether or not the patient is currently subject to compulsory detention. A procedure would be put in place to allow people to make this nomination and have their decision formally recorded.
16. A nominated person would have the following powers:
  - to object to the use of compulsory powers – this objection would be recorded by the Approved Social Worker on the application form;
  - to apply for the patient's discharge from hospital or from a Community Treatment Order, by applying to the Mental Health Review Tribunal on behalf of the patient;
  - to attend any hearings relating to the person who is subject to an order – this would specifically cover aftercare meetings and Review Tribunal hearings;
  - to receive information about proposed treatment and plans of care.
17. Where a nominated person has not been identified, or declines to act, the nearest relative – defined as the first of the people on the following list - would act as the nominated person:

- spouse (unless permanently separated by agreement or court order)
- cohabitee
- son or daughter
- parent
- sibling
- grandparent
- grandchild
- uncle or aunt
- nephew or niece

Where there is no nominated person or nearest relative, an Approved Social Worker would be empowered to exercise those powers relating to compulsory detention.

The actual relationship of the applicant to the subject of the application would be stated on the application form.

Subsequent references in this Policy Letter to a nominated person also include the nearest relative, in the circumstances set out above.

18. When considering making an application under the provisions of this legislation, the Approved Social Worker would take steps to establish whether a nominated person is currently identified.
19. In circumstances where the Approved Social Worker or Responsible Medical Officer felt that the choice of nominated person is inappropriate and not in the best interests of the individual, an application could be made to the Court for a judgement. If a decision were taken to displace the chosen nominated person, the provisions set out in paragraph 17 would apply.

### **The Approved Social Worker**

20. The Approved Social Worker plays a significant role in current, and proposed, mental health legislation in England & Wales. Proposals for new local legislation include the introduction of Approved Social Workers. One of their main roles would be to make applications for compulsory admission to hospital. Currently, this role is undertaken by a close relative or Parish Constable.
21. Although it is still felt important to involve an individual's nominated person in the detention process, the Board considers it essential that professional, psychiatric expertise is included and available at the point of admission.
22. Under these proposals, the Law Officers of the Crown would approve social workers appointed by the States to assess individuals for compulsory admission or community treatment under the Law, to interview them in a suitable manner and to make application for admission or Community Treatment Orders if appropriate.
23. Approved Social Workers would be expected to be familiar with the day to day workings of an integrated mental health service, be able to assess what other services may be required and know how to mobilise them. Their key role will be to make application for compulsory admission to hospital, where they decide this is appropriate.
24. The Approved Social Worker would be required to take account of other forms of care or treatment when considering whether compulsory treatment is appropriate. Before making an application for the admission of a patient to hospital, an Approved Social Worker would

interview the patient in a suitable manner and satisfy himself that detention in hospital is, in all the circumstances of the case, the most suitable way of providing the care and medical treatment that the patient needs.

25. Other duties of Approved Social Workers would include:
- responding to requests for assessment from the nominated person and informing them, in writing, if no application is made;
  - informing the nominated person when an application is being made and consulting with them regarding the type of order being applied for;
  - providing social circumstances reports for Mental Health Review Tribunals.
26. Approved Social Workers would be authorised to make an application for admission to hospital or application for community treatment. The Approved Social Worker must be satisfied that an application ought to be made and be of the opinion, having regard to any wishes expressed by the individual chosen to act as nominated person, or other relevant circumstances, that it is necessary and proper for an application to be made.

The Approved Social Worker would be required to make every effort to contact the person's nominated person before completing an application. If the nominated person objects to the use of compulsory powers, this would have to be recorded on the application.

If the Approved Social Worker decided not to make an application, this would be formally recorded in the form prescribed and communicated to the patient's nominated person, General Practitioner and Consultant Psychiatrist.

27. Sufficient numbers of Approved Social Workers, responsible for discharging the functions conferred on them by the proposed legislation, would be appointed on behalf of the States of Guernsey.

Nobody should be appointed as an Approved Social Worker unless formally approved as having appropriate competence in dealing with persons who are suffering from mental disorder.

28. An Approved Social Worker would be provided with documentary evidence of appointment, as some sections of this legislation will require them to produce such documentation. This will provide an Approved Social Worker with powers of entry and inspection.
29. When carrying out functions set out under this legislation, the Approved Social Worker acts in a personal, but professional, capacity. They should, therefore, exercise their own judgement and not act at the behest of their superiors, or anyone else. The Approved Social Worker would be an employee of the Board of Health.
30. An Approved Social Worker could be appointed as a named supervisor, as described in paragraph 76.
31. An Approved Social Worker could, at all reasonable times after producing a duly authenticated court warrant, enter and inspect premises within the Bailiwick of Guernsey in which a mentally disordered individual is living, if they had reasonable cause to believe that person was not under proper care. The Approved Social Worker would be assisted by Police Officers, if deemed necessary.

Where an Approved Social Worker or Police Officer believed there to be serious and imminent risk to a person's life, health or safety, entry to premises could be made without first obtaining a court warrant.

### **Formal Admission and Detention Orders**

32. As explained in paragraph 3, the Board is keen to retain the relative simplicity of the current legislation. Consequently, the number of commonly used orders allowing compulsory admission and subsequent detention should be kept to a minimum. The number of such orders has therefore been restricted to four, plus medical and nurse holding powers in respect of voluntary patients currently in hospital. The compulsory orders would be as follows:

Assessment; Treatment; Police Urgency; Medical Holding; Nurse Holding; Community Treatment.

The scope and application of these orders is set out below.

### **Assessment Order**

33. An Assessment Order would allow compulsory admission to hospital for up to twenty-eight days for the purpose of assessment, or assessment followed by treatment, for mental disorder. This order would replace the current seven day Urgency Order and is equivalent to Section 2 of the Mental Health Act, 1983, a twenty-eight day order.
34. A twenty-eight day order is felt to be more appropriate than a seven-day order as it allows sufficient time for an assessment to be made.
35. Grounds for detention under an Assessment Order would be that:
- the patient is suffering from mental disorder of a nature or degree that warrants detention for a limited period; and
  - the patient needs to be detained for his own health or safety or for the protection of others.
36. One medical recommendation, from a General Practitioner, would be required. Ideally, this should be from the patient's usual General Practitioner. The General Practitioner would consult with a Consultant Psychiatrist, or medical officer, before making the recommendation.
37. Admission to hospital would have to take place within seven days of the date of the medical recommendation.
38. An application for admission under an Assessment Order could be made by either an Approved Social Worker or nominated person. If the nominated person did not wish to make an application, or objected to an application being made, the Approved Social Worker would be able to do so, but would formally note the dissension of the nominated person. The application form will attest to the fact that, in the applicant's opinion, admission to hospital is the most appropriate way of providing the care and medical treatment required by the patient.
39. Treatment could be administered to patients detained under this order after their valid consent has been obtained by the Responsible Medical Officer, or another medical officer, acting on his behalf. This should be recorded in the form prescribed and also in the patient's



medical records. Circumstances in which treatment could be administered without consent are described in paragraphs 107 and 109 .

40. The patient may make application to the Mental Health Review Tribunal, described in paragraphs 88 to 98, requesting that the need for continued detention is re-considered. One application to the Review Tribunal could be made during the term of the Assessment Order, after a period of five days has elapsed from the Order being applied.
41. The patient could be discharged from this Order by the Responsible Medical Officer before the expiry of twenty-eight days.
42. An Assessment Order could not be renewed. Upon expiry of an order, the patient would either have to revert to voluntary status or an application made for a Treatment Order if continued detention in hospital, combined with treatment, is felt necessary.

### **Treatment Order**

43. A Treatment Order would allow compulsory detention for up to six months. It would be renewable, in the first instance, for six months and then subsequently for periods of twelve months. This order would replace the current one-year Admission Order (certification).
44. The Board considers a six-month order to be preferable to a one-year order as it requires more frequent review of a patient's detention and thus will provide enhanced human rights protection.
45. The current long-term compulsory admission (certification) requires two General Practitioners to complete the necessary medical recommendations. However, for a person to be deprived of his liberty a high level of psychiatric, medical, expertise is essential and it is proposed that Treatment Orders will require a medical recommendation from a Consultant Psychiatrist.
46. Grounds for admission under a Treatment Order would be that:
  - the patient is formally diagnosed as suffering from mental disorder; and
  - the mental disorder is of a nature or degree that makes it appropriate for the patient to receive treatment in hospital. (It is possible that a patient may be suffering from mental disorder, but need not be treated in hospital because he can be treated in the community);
  - it is necessary in the interests of his health or safety or for the protection of others that he should receive such treatment and it cannot be provided unless he is detained.
47. Two medical recommendations would be required, one from a General Practitioner and one from a Consultant Psychiatrist. If the doctors examine the patient separately, not more than five days must have elapsed between the days on which the examinations took place.
48. An application for admission could be made by an Approved Social Worker or nominated person. The applicant must have personally seen the patient within seven days, ending with the date of signing the application. The applicant's form will attest to the fact that, in the applicant's opinion, admission to hospital is the most appropriate way of providing the care and medical treatment the patient needs.

The application could only be signed once the two medical recommendations have been properly completed.



49. Wherever possible, valid consent should be obtained from patients, by the Responsible Medical Officer, before any course of treatment is administered. This should be recorded in the prescribed form and also in the patient's medical notes. However, certain treatments, described in paragraph 109, could be administered to a patient detained on a Treatment Order, without their consent, on the recorded instruction of the Responsible Medical Officer, for a maximum of three months.
50. If the Treatment Order needed to be renewed, the Responsible Medical Officer would make the necessary application. In the first instance, renewal would be for a further six months and thereafter for periods not exceeding twelve months.  
The application will be authorised by the Board of Health and formally approved by a Law Officer.
51. A patient will be able to request that the Mental Health Review Tribunal considers the need for continued detention once during each six-month period of detention. Thereafter, one appeal could be made during each subsequent twelve-month period.

Application to the Mental Health Review Tribunal would be made in a prescribed form and the Mental Health Law Administrator would provide the patient with assistance in completing this form.

Although provision for appeal against detention under this legislation exists only in respect of treatment and assessment orders, there is nothing to prevent an individual from independently making an appropriate application to the courts.

52. The Responsible Medical Officer could discharge a patient from the Treatment Order. If this action were taken, the Responsible Medical Officer would formally record this decision in a prescribed form.
53. An entitlement to aftercare would exist for anyone detained on a Treatment Order. Prior to the patient's discharge, the Responsible Medical Officer would convene an aftercare meeting. This would be a multi-disciplinary meeting attended by staff involved in the patient's current, or continuing, care. The Responsible Medical Officer, or designated deputy, would formally record the meeting in the patient's medical record and note details of the post-discharge care plan.

### **Police Urgency Order**

54. A Police Urgency Order would allow compulsory admission to a place of safety for a period not exceeding seventy-two hours to allow the subject of the order to be interviewed by an Approved Social Worker and examined by a registered medical practitioner. This Order is shorter than the current seven-day Police Urgency Order, which is considered important because of human rights implications. It reflects the seventy-two hour Sections 135 & 136 of the Mental Health Act, 1983.
55. A Police Urgency Order could be applied where a police officer (including the equivalent official in Sark) finds, in a place to which the public have access, or in a private property, a person who appears to be suffering from mental disorder and to be in immediate need of care or control. The officer may, if believed necessary, in the interests of that person, or for the protection of others, remove that person to a place of safety.
56. If an officer suspected, with reasonable cause, that a person who appeared to be suffering from a mental disorder is on private premises, and there is serious and imminent risk to a

person's life, health or safety, he may enter those premises without warrant in order to remove that person to a place of safety.

57. Grounds for detention under a Police Urgency Order would be that:
  - the patient appears to be suffering from mental disorder of a nature or degree that warrants detention for a limited period; **and**
  - the patient needs to be detained for his own health or safety or for the protection of others.
58. The prescribed form used to support this order will attest to the fact that, in the applicant's opinion, admission to a place of safety is the most appropriate way of providing the care and medical treatment required.
59. The Responsible Medical Officer, or another Medical Officer to whom this responsibility has been delegated, could discharge a patient. If the patient was discharged before seventy-two hours had elapsed, the doctor would complete the prescribed form.
60. This order could not be renewed. If continued assessment was felt necessary, the patient would revert to voluntary status, or an application would be made for an Assessment Order if continued detention in hospital was required.
61. Treatment should only be administered to patients detained under this order after the Responsible Medical Officer, or another medical officer acting on his behalf has obtained their valid consent. Circumstances in which urgent treatment could be administered without consent are described in paragraph 107.

#### **Medical Holding Power**

62. A Medical Holding Power would allow detention of a voluntary patient for a period not exceeding seventy-two hours from time of application. This order is very similar to the current Article 31(5) Holding Order. However, whereas only a Consultant Psychiatrist may complete the latter, a Medical Holding Power could be completed by the doctor in charge of the patient's care at the time, and could be applied, for example, by a doctor in the Accident and Emergency Department.
63. A Medical Holding Power would be applied in the case of a mentally disordered patient who is already receiving treatment in hospital as a voluntary patient and who is actively expressing a wish to leave hospital before there is time to complete an Assessment (paragraph 33) or Treatment (paragraph 43) Order.
64. One medical recommendation is required and this would be made by either the Responsible Medical Officer, or medical officer.
65. Treatment should only be administered to patients detained under this order after their valid consent has been obtained by the Responsible Medical Officer, or another medical officer, acting on his behalf. Circumstances in which urgent treatment could be administered without consent are described in paragraph 107.
66. The Responsible Medical Officer, or another doctor to whom this responsibility has been delegated, could discharge a patient. If the patient was discharged before seventy-two hours have expired the doctor would record this decision in the form prescribed.

67. This order could not be renewed. If continued detention is felt necessary, application for an Assessment or Treatment Order would have to be made.

### **Nurse Holding Power**

68. Guernsey's current mental health legislation does not provide nursing staff with any formal powers of detention, unlike the Mental Health Act, 1983, which includes a Section 5(4) Nurses' Holding Power. The absence of any formal power places nursing staff in a vulnerable position, both professionally and legally, as emergency situations can necessitate the de facto detention of patients.

The proposed Nurse Holding Power would allow a registered nurse to detain a voluntary patient who is already being treated for mental disorder, for up to six hours.

69. Grounds for detaining a patient under this power would be that:
- the patient is suffering from mental disorder to a degree that makes it necessary for his health or safety, or for the protection of others, for him to be immediately restrained from leaving hospital. Can only be applied if the patient is either indicating verbally, or otherwise, that he wishes to leave; and
  - it is not possible to immediately obtain a doctor for the purpose of applying a Medical Holding Power.
70. The holding power would commence after the nurse has recorded their opinion, in the form prescribed, and end six hours later or, on application of a Medical Holding Power.

The nurse exercising this power must be registered on the professional register on either:

- Part 3 First level nurse trained in nursing persons suffering from mental illness;
- Part 5 First level nurse trained in nursing persons suffering from a learning disability;
- Part 13 Nurses qualified following a course of preparation in mental health nursing;
- Part 14 Nurses qualified following a course of preparation in learning disability nursing.

71. This order could not be renewed. If continued detention is felt necessary, application for a Medical Holding Power or Assessment Order must be made.

### **Community Treatment Order**

72. The introduction of the Community Treatment Order into Guernsey's mental health legislation mirrors moves in the UK to do the same. This order seeks to fulfil rights to liberty and freedom, whilst at the same time maintaining the health and safety of the patient and the public. The Community Treatment Order aims to meet the needs of patients who do not require hospital admission but who do require compulsory medication and/or follow-up.
73. This Order would allow compulsory treatment in a community setting for up to six months. It is renewable, in the first instance, for a further six months and subsequently for periods of twelve months.
74. Grounds for a Community Treatment Order would be that:
- the patient is suffering from mental disorder of a nature or degree that warrants supervision in the community; **and**
  - the patient needs to be supervised for his own health or safety or for the protection of others or to prevent exploitation by others.

75. A Community Treatment Order would confer the following powers:

- i) the power to require the patient to reside at a specified place and convey them there if necessary;
- ii) the power to require the patient to attend at places and times specified for the purpose of medical treatment, occupation, education or training;
- iii) the power to require that access to the patient is given, at any place where the patient is residing, to any registered medical practitioner, Approved Social Worker or other person so specified;
- iv) the power to convey and admit to hospital;
- v) the power to enforce compliance with prescribed treatment.

If a patient subject to a Community Treatment Order was admitted to hospital then the order would remain valid for a period of ten days, during which time a decision would be taken as to whether transfer to a Treatment Order needed to be made. Treatment provisions during this period would be exactly the same as for a Treatment Order.

76. A Named Supervisor would be appointed, with the authority to exercise powers conferred by the order in person, or with assistance from the police, who would act on the advice of the Named Supervisor, or other Officers of the Board of Health.
77. If a Community Treatment Order were applied to someone currently the subject of a Treatment Order, it would have the effect of a new Order. This means that any period of time spent in hospital under the Treatment Order would be disregarded.
78. Two medical recommendations would be required. If the doctors examine the patient separately, not more than five days must have elapsed between the days on which the examinations took place. One medical recommendation should come from a doctor acting as the Responsible Medical Officer and the other from a General Practitioner who knows the patient.
79. An application for a Community Treatment Order could be made by an Approved Social Worker or nominated person. The application form would attest to the fact that, in the applicant's opinion, a Community Treatment Order is the most appropriate way of providing the care and medical treatment required by the patient.

The application could only be signed once the two medical recommendations have been properly completed.

80. If a patient failed to comply with the terms of a Community Treatment Order, as set out in the form prescribed, then any of the powers set out under paragraph 75 could come into effect.
81. The provisions relating to consent to treatment would be the same under this Order as for patients detained under a Treatment Order (paragraph 43). Additionally, a patient subject to a Community Treatment Order could be required to attend any form of therapeutic intervention prescribed by the Responsible Medical Officer in conjunction with the multi-disciplinary team.
82. The patient could request that his Responsible Medical Officer discharge him from the Order. The patient could also apply for discharge to the Mental Health Review Tribunal.

83. A patient would be able to request that the Mental Health Review Tribunal consider the continued need for this Order once during each six-month period of detention. Thereafter, one appeal could be made during each twelve-month period of detention.

Application for discharge to the Mental Health Review Tribunal would be made in the manner prescribed and the Mental Health Law Administrator would provide the patient with assistance in completing this form.

84. An Approved Social Worker, or nominated person, could make application for renewal of the Community Treatment Order. One medical recommendation, from the patient's Responsible Medical Officer, would be required. In the first instance, renewal would be for a further period of six months and thereafter for periods not exceeding twelve months.

### **The Law Officers**

85. A Law Officer of the Crown would formally approve the applications for compulsory detention if he was satisfied that the grounds for detention are made out and the other requirements of the legislation have been complied with. If not, the Law Officer would inform the Mental Health Law Administrator of the reason (s) why he is not so satisfied.

All applications and recommendations would be forwarded to the Law Officers for approval, with the exception of Police Urgency Orders, Medical Holding and Nurse Holding Powers,

### **Appeals**

86. The absence of an express appeal or review mechanism within Guernsey's current legislation is particularly susceptible to a human rights challenge, for example under Article 5 (Liberty) or Article 6 (Fair Trial) of the European Convention on Human Rights.
87. Provision for appeal against detention under these proposals exists only in respect of assessment and long-term orders. However, there is nothing to prevent an individual from independently making an appropriate application to the courts.

### **Mental Health Review Tribunal**

88. A Mental Health Review Tribunal would be created to allow patients formally detained in hospital under an Assessment Order (paragraphs 33-42), Treatment Order (paragraphs 43-53) or subject to a Community Treatment Order (paragraphs 72-84) to formally request that the continued application of these orders be reconsidered.  
Patients detained under the criminal justice orders described in paragraphs 113 to 129 could also make application to the Review Tribunal. However, restrictions may be imposed by the Courts that limit decisions available to the Tribunal.
89. To maintain a degree of independence, appointments to the Review Tribunal would be made by one of the senior Committees of the States, either the Advisory & Finance Committee or the Civil Service Board. They would also be responsible for removing appointees from the Tribunal where this becomes necessary.
90. The Tribunal would comprise three members: one legally qualified (Chair), one medically qualified (Consultant Psychiatrist) and one lay member. The Board of Health would administer the appeal process, but members will be independent of the Board.

91. The patient would make application to the Review Tribunal in writing, in the form prescribed. The Mental Health Law Administrator would formally note receipt of the application and arrange for a Tribunal to be convened no later than two weeks from the date the application was received.

The Mental Health Law Administrator would be available to assist the patient in completing the application.

92. The Review Tribunal could:

- discharge patients from assessment, treatment or community treatment orders;
- recommend leave of absence from hospital;
- decide on delayed discharge or transfer to another location;
- recommend transfer to a Community Treatment Order from a Treatment Order;
- recommend transfer to a Treatment Order from a Community Treatment Order.
- recommend discharge from the relevant criminal justice order

93. The Tribunal would have to discharge a patient if the members were satisfied that:

- the patient is not then suffering from mental disorder to a nature or degree which makes it appropriate for him to be liable to be detained in a hospital, or be the subject of a Community Treatment Order, for medical treatment; or
- it is not necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment.

94. Where the Tribunal is not bound to discharge the patient under the criteria set out above, it would consider the following factors:

- the likelihood of medical treatment alleviating or preventing a deterioration of the patient's condition; and
- the likelihood of the patient, if discharged, being able to care for himself, to obtain the care he needs or to guard himself against serious exploitation.

95. The following reports would be made available to the Tribunal prior to a hearing:

- medical report from patient's Responsible Medical Officer;
- nursing report from Ward Manager or Community Mental Health Nurse equivalent;
- social report from Social Worker working with patient;
- reports from other therapy staff involved in the care of the patient.

It would be the responsibility of the Board of Health to ensure that these reports are made available.

If the medical member of the Tribunal wishes to examine the appellant independently, the Board of Health would make the necessary arrangements.

96. A patient subject to an Assessment Order could make an application to the Mental Health Review Tribunal on one occasion during the term of that order and a patient on a Treatment, or Community Treatment Order, could make one application during each six-month period of detention and one application during each subsequent twelve-month period.

An application could only be presented after five days of an Assessment Order have elapsed and after three months of a Treatment or Community Treatment Order have elapsed. If

these latter orders were renewed, the application could be presented three months from the renewal of the relevant order.

The Board of Health would automatically refer a patient to the Review Tribunal if they had been the subject of a Treatment or Community Treatment Order and not exercised their right to apply. The qualification period for automatic referral has yet to be determined, but is likely to be after either one, or two, years continued detention.

97. The applicant will be entitled to legal representation at Review Tribunal hearings. Where the applicant is without sufficient funds it is proposed that the States would meet the cost of representation, subject to a means test. This could be dealt with through the local legal aid scheme, subject to legislative and budgetary provision being made.

The applicant might prefer to be represented by an independent (non-legal) advocate who could present the appeal on the applicant's behalf. Alternatively, applicants may choose to represent themselves at the Tribunal hearing.

98. The Tribunal Chairman would personally communicate the Review Tribunal decision to the patient.

A formal record of the decision would be sent to the applicant in the form prescribed within five working days of the decision being taken and a copy retained by the Board of Health.

It is possible that the Mental Health Review Tribunal could operate under the auspices of the proposed new Tribunals Service.

#### **Leave of absence**

99. The following provisions for leave would apply to patients subject to compulsory detention:

- Medical Holding Power & Police Urgency Order - no leave of absence applicable.
- Assessment Order & Treatment Order - The Responsible Medical Officer could grant any patient detained under these orders leave of absence, subject to specific conditions considered appropriate in the interests of the patient or the protection of others.

100. In the interest of the patient's health or safety, or that of other people, the Responsible Medical Officer may recall the patient to hospital at any point during the leave period, unless the Assessment Order or Treatment Order had lapsed.

Notice of such a recall should be given in writing to the patient, or the person in charge of the patient at that time. A patient should not be recalled from leave in order to renew formal detention as it would be permissible to renew an Assessment, or Treatment, Order while the patient is on official leave

Leave of absence may be granted for a specific period, which may be extended. The Responsible Medical Officer will formally record the granting of leave to detained patients.

101. A patient who absents himself from a hospital or approved residence, or fails to return from a set period of leave, would be considered to be absent without leave. He may be taken into custody and returned to the hospital by the police, an Approved Social Worker, any officer on the staff of the hospital or any person authorised in writing by the Board of Health.



A patient who is absent without leave may not be taken into custody after six months of the commencement of his absence from the hospital or after the relevant detention order has expired.

102. A patient on authorised leave of absence would remain liable to be detained and subject to the consent to treatment provisions set out in paragraphs 103-111.

### **Consent to Treatment**

103. Consent to treatment is always required unless legislation dictates otherwise.
104. Capacity to consent is a matter of clinical judgement. The patient must be able to understand the treatment proposed, its implications and be able to make a choice about it. The patient may be assisted in this by their nominated person or an independent (non-legal) advocate.
105. Consent is only valid when given on the basis of an informed decision, without unfair pressure and can be withdrawn at any time. A duty of care will exist to keep the patient informed about treatment proposed, and any alternatives to it.
106. In general, treatment should only be administered to detained patients after their valid consent has been obtained by the Responsible Medical Officer, or another medical officer acting on his behalf, and this should be documented in the patient's records.

Guernsey's current mental health legislation provides no additional guidance on consent to treatment. That the new legislation should deal expressly with the circumstances in which treatment may be given without consent is considered appropriate from a best practice perspective, and also to reflect people's rights as enshrined in the European Convention on Human Rights.

107. Urgent, but not irreversible, treatment could be administered without the patient's consent in the following circumstances:
- when it is immediately necessary to save the patient's life;
  - where immediately necessary to prevent a serious deterioration in the patient's condition;
  - where immediately necessary to alleviate serious suffering by the patient;
  - where immediately necessary, and represents the minimum interference possible, to prevent the patient from behaving violently or being a danger to himself or others.

A record of any urgent treatment administered without consent must be recorded, by the Responsible Medical Officer, in the form prescribed. These records must be made available to the Board of Health in the manner prescribed.

108. The following treatments cannot be administered without the patient's valid consent and a second opinion from a Consultant Psychiatrist confirming its clinical necessity:
- psychosurgery – for the purposes of destroying brain tissue or for destroying the functioning of brain tissue;
  - surgical implantation of hormones for the purpose of reducing male sex drive.

The Responsible Medical Officer must satisfy himself that the patient understands the treatment proposed and is capable of giving valid consent. The doctor providing the second opinion will examine the patient and, if satisfied that the proposed treatment is necessary



and the patient consents to it, will formally confirm that the treatment should proceed. Prior to giving written confirmation, the doctor providing the second opinion must consult with two other professionals who have been involved in the patient's care. One of these must be a Registered Mental Health Nurse and one an Approved Social Worker or State Registered Occupational Therapist.

109. The following treatments could be administered to patients on a Treatment Order without their consent on the recorded instruction of the Responsible Medical Officer for a maximum of three months:

- medication for the purpose of alleviating and treating mental disorder;
- electro convulsive therapy;
- taking of blood samples;
- administration of drug doses above British National Formulary recommendations;
- feeding contrary to the will of the patient.

These treatments could also be administered to a patient who is the subject of an Assessment Order, without their consent.

Where a decision was taken by the Responsible Medical Officer to administer any of the above treatments in the absence of consent, this would be recorded in the prescribed form. This record would confirm the date treatment commenced and confirm that it is necessary for the health and safety of the patient and/or for the protection of others.

110. If continuation of treatment beyond three months is felt necessary, and the patient refuses, then a second opinion from a Consultant Psychiatrist would have to be obtained before treatment continues. The second opinion doctor would review the patient's case and formally record, in the form prescribed, a decision supporting continuation of treatment for a further six months, or not supporting continuation. If the second opinion decision supports continuation of treatment, the review process would have to be repeated if treatment is to continue beyond a further six months. If the second opinion recommends discontinuing treatment, treatment would have to be stopped.

Where treatment had been administered without consent to a patient subject to an Assessment Order, the three-month rule would apply from the date treatment commenced – not from when they had been transferred onto a Treatment Order.

Doctor's providing a second opinion must not be employed by the States of Guernsey, a member of the Board of Health, related to, or in a relationship with the patient, or a business partner of any medical practitioner in Guernsey.

111. Where a patient subject to an Assessment or Treatment Order had initially consented to any of the treatments set out in paragraph 109 and subsequently withdraws their consent, the treatment could continue to be administered, without consent, for a maximum of three months, on the recorded instruction of the Responsible Medical Officer.

Withdrawal of consent may be made verbally, in writing or through the patient's behaviour.

### **Criminal Justice Orders**

112. The Board proposes that the courts should have the power to order the detention in hospital of individuals who are mentally disordered and whose disorder significantly contributes to their offending behaviour. Three orders would be available to the Courts.

### **Remand to hospital for psychiatric report or treatment**

113. The Magistrates' Court or Royal Court could remand an accused person to hospital for one, or both, of two reasons.

- For the purpose of psychiatric assessment and compilation of psychiatric reports.
- For the purpose of urgent psychiatric treatment and reports. This remand order must be supported by a medical recommendation from a consultant psychiatrist.

114. Grounds would be:

i) remand to hospital for the purpose of psychiatric assessment and compilation of psychiatric reports if:

- there is reason to suspect that the accused is suffering from mental disorder; **and**
- it is impracticable for a report to be made if the person is remanded otherwise than to a hospital.

ii) remand to hospital for the purpose of psychiatric treatment if:

- the accused is suffering from mental disorder of a nature or degree that makes detention for medical treatment in a hospital appropriate.

115. Remand to hospital for psychiatric treatment would require the written, or oral, evidence of a consultant psychiatrist.

A report would confirm that arrangements have been made for admission to hospital within seven days of remand.

116. A person may be placed on remand to hospital for psychiatric report or treatment for up to twenty-eight days at a time subject to a permitted maximum of twelve weeks in total.

117. In the case of a patient on a remand to hospital for psychiatric report, treatment could only be administered with consent, or in an emergency under common law.

A patient on remand to hospital for psychiatric treatment may be given treatment, including those set out in paragraph 109 but excluding those set out in paragraph 108, without consent for up to twelve weeks.

118. The patient may commission an independent psychiatric report at his own expense and make an application in court to terminate the remand.

119. The patient could not be discharged by the Responsible Medical Officer. The court could terminate the remand, but the accused would not be discharged from the proceedings.

### **Hospital Treatment Order**

120. The Magistrates Court or Royal Court, where a person is convicted of an offence punishable by imprisonment, may, by order, authorise admission and detention in hospital for the purpose of psychiatric treatment. The Courts may also so order without proceeding to conviction, where satisfied that the accused did the act or made the omission charged. This order would allow compulsory detention for up to six months, renewable for a further six

months and subsequently for periods of twelve months. It is effectively the same as a Treatment Order (paragraphs 43-53).

121. Grounds for detention under a Hospital Treatment Order would be that:
  - the offender is suffering from mental disorder; **and**
  - it is of a nature or degree that makes detention for medical treatment appropriate; **and**
  - the court thinks a hospital treatment order is the most suitable way of dealing with the case.
122. Two medical recommendations would be required, one from a General Practitioner and one from a Consultant Psychiatrist. If the doctors examine the patient separately, not more than five days must have elapsed between the days on which the examinations took place.
123. The general provisions of this Order would be the same as those described for a Treatment Order (paragraphs 43-53), including the facility to make application to the Mental Health Review Tribunal.
124. The Hospital Treatment Order may be subject to an additional Restriction Order, imposed by the Court. This may cover such matters as discharge from hospital, leave of absence or transfer to another hospital.

#### **Hospital Transfer Order**

125. The court may order the transfer of a prisoner to hospital, based on medical evidence that this is necessary. This order would allow compulsory detention for up to six months, renewable for a further six months and subsequently for periods of twelve months.
126. For such an order to be made, the court would have to be satisfied that:
  - the prisoner is suffering from mental disorder; **and**
  - the disorder is of a nature or degree that makes it appropriate for them to be detained in hospital for medical treatment; **and**
  - transfer to hospital is the best course of action and in the public interest.
127. Two medical recommendations would be required, one from a Consultant Psychiatrist and one from a General Practitioner.
128. The general provisions of this Order would be the same as those described for a Treatment Order (paragraphs 43-53), with the exception that discharge could only be authorised by the court, leave could only be granted at the discretion of the court. A Mental Health Review Tribunal could not discharge somebody detained under this order, but may recommend to the court that this be considered.
129. If medical opinion, and, where appropriate, that of the Review Tribunal, is that the individual no longer needs to be detained in hospital by reason of his mental disorder, but has not completed his prison sentence then he should return to prison. Return to prison would take into account time already spent in prison and hospital, together with any appropriate remission and parole possibilities.
130. The Criminal Justice (Special Verdicts) (Guernsey) Law, 1961 would also require updating in order to make it compatible with these proposals.

### **Children and Young People**

131. This legislation would apply to children as well as adults, although compulsory admission of children would be relatively rare. Therefore, the relevant provisions of the mental health law would apply to children and young people under the age of eighteen years.
132. Discussion with the Children Board would take place if active consideration was being given to making someone under the age of eighteen the subject of a compulsory detention order. The Approved Social Worker or Mental Health Law Administrator would make contact, in the first instance.
133. The Approved Social Worker would liaise with the Children Board in cases where someone has, or is likely to, become the subject of a formal detention order and has children under the age of eighteen living with them.
134. A Guardian would be appointed to act on behalf of someone under the age of eighteen who is the subject of a compulsory detention application. Ideally, the Guardian will have knowledge of mental health issues in children and adolescents. The role of the Guardian would be to ensure that the best interests of the young person are the primary focus of care processes and decision-making.
135. If a competent person under the age of eighteen refused to give consent to any of the treatments specified under paragraph 109, a second psychiatric opinion would have to be obtained before treatment commenced against the individual's wishes. The provisions set out in paragraph 107 would apply in the interim.

A minor should receive treatment on a consensual basis wherever possible, either with their consent, if competent, or with consent from a person with parental responsibility and the co-operation of the child. In the event of any child not consenting to treatment, the Guardian would be consulted and the matter may be referred to the courts for a judgement.

136. Care and treatment would always be offered in the best interests of the child and in the least restrictive setting in order to cause minimum disruption to home and school life.

### **Patients' Rights and Information**

137. Human rights considerations suggest patients' rights should be clearly defined in the new mental health legislation and for patients to be informed of their rights by the most appropriate means.

138. Leaflets & Information:

Patients formally detained in hospital under this legislation, or subject to a community treatment order, would be given information about the orders to which they are subject and how they might be able to appeal. Where appropriate, the nominated person will also be involved.

Information would be supplied verbally and in the form of information leaflets. It would be the responsibility of nursing staff to ensure patients are given the relevant information in leaflet form and to explain their rights to them.

A range of information leaflets covering issues such as detention orders, appeals, aftercare and consent to treatment would be made available.

## 139. Mail:

Mail sent to, and from, patients not formally detained could not be withheld. In some circumstances, mail sent by a detained patient could be withheld. When, for example, the addressee has formally requested that this be done. Mail sent to a detained patient should not normally be withheld, unless there were clear clinical reasons to do so. A system would be developed to ensure that arrangements put into place to deal with this issue are seen to be reasonable.

Details of mail withheld would be recorded in a prescribed form.

Mail addressed to the Mental Health Review Tribunal could not be withheld.

## 140. Telephone Calls and Electronic Media:

Access to third parties via the internal hospital telephone system and Board of Health-controlled electronic media could be denied to detained patients where the third party has made a specific request for this to happen in the form prescribed.

**Links to other jurisdictions**

141. Guernsey's current mental health legislation includes provision for transfer to England and Wales. The Mental Health Act, 1983, has corresponding provisions for receipt of patients from Guernsey and transfer to the island. These local provisions are unchanged in the proposed legislation.

142. Formally detained patients may be transferred to England and Wales, or other jurisdictions from the Bailiwick of Guernsey, or vice versa. In such circumstances, the relevant legislation of the transferring jurisdiction would have no legal standing in the receiving jurisdiction. The following provisions set out the mechanisms whereby such transfers could be legally enacted.

143. Only patients formally detained under a Treatment Order (paragraphs 43-53), or Community Treatment Order (paragraphs 72-84), or a Criminal Justice Order (paragraphs 113-129) would be subject to an enforceable transfer order to enable transfer from the Bailiwick.

An application for a transfer order would be made by the patient's Responsible Medical Officer and formally recorded in the form prescribed. The application for transfer would require the formal approval of a Law Officer and be recorded in the form prescribed.

Once a transfer order had been issued, it would confer authority to convey the patient to a specified unit in the UK, or elsewhere so specified. The transfer should take place as soon as suitable arrangements are made. Verified copies of the Treatment Order, Community Treatment Order or Criminal Justice Order and Transfer Order would have to be passed to the receiving authority.

144. Formally detained patients from other jurisdictions could only be transferred to Guernsey with the prior approval of the local consultant psychiatrist who will be responsible for their ongoing clinical care. Prior to admission and transfer, the necessary documentation allowing the application of equivalent local mental health legislation would have to be completed.

Verified copies of the detention order applied in the transferring jurisdiction would have to be provided to the Board of Health.

## **Documentation**

145. Prescribed forms would be used to make applications and recommendations for compulsory detention under the provisions of this legislation. This approach would extend to all other relevant provisions to ensure that the legislation could be monitored effectively.
146. The Mental Health Law Administrator would have responsibility for receiving and scrutinizing documentation. However, the Board would ensure this role could be delegated to other officers, with knowledge of the relevant parts of the Law, to ensure twenty-four hour cover.
147. With the exception of Police Urgency Orders, Medical and Nurse Holding Powers, applications and recommendations would be forwarded to the Law Officers for approval.
148. If the relevant papers were filled out incorrectly in a minor respect, a Law Officer may nevertheless approve the patient's detention for up to three days whilst the error is rectified.

Errors that could be rectified:

- omission of non critical information;
- failure to delete one or more alternatives;
- the patient's forename, surname or address can be corrected if they do not agree in all cases;
- where each individual medical recommendation is valid but taken together they do not comply with the Law then one of the medical recommendations can be replaced by a new one. This will be valid if, together, the two recommendations comply with the Law.

Errors that could not be rectified:

- if the form is signed by someone who is not empowered under the law to do so, or is not signed at all;
- if the doctors do not agree in specifying at least one form of mental disorder;
- if the time limits of each section are not complied with.

149. Documents covered by paragraphs 145-148:

- an application made under the law
- a medical recommendation or report
- any other document required or authorised to be made for any purposes under this legislation.

## **Miscellaneous Provisions:**

### **Transfer of persons between provisions of previous and new laws**

150. Any person who is the subject of any of the provisions of The Mental Treatment (Guernsey) Law 1939, as amended, when the new law comes into force would become subject to the provisions of the new law as follows:
  - Urgency Order to Assessment Order
  - Admission Order to Treatment Order
  - Police Urgency Order to Police Urgency Order
  - Article 31(5) Holding Order to Medical Holding Power

The date on which the order commenced would be taken as being the date on which the original order was placed under The Mental Treatment (Guernsey) Law 1939, as amended. This means that some patients detained under the former long-term order would be able to make an appeal to the new Review Tribunal, if three months had elapsed from the date the order had been applied. The facility to appeal would also be open to patients detained under the former Urgency Order.

#### **Formal Detention - other than psychiatric unit**

151. Provided the relevant sub-sections had been fully complied with, the following could be applied to a patient residing in any Board of Health premises, or other premises so authorised by the Law Officers of the Crown:

Assessment Order, Treatment Order, Police Urgency Order, Medical Holding Power.

#### **Mental Health Law Administrator**

152. The post of Mental Health Law Administrator would be responsible, on behalf of the Board of Health, for the efficient operation of the administrative aspects of this legislation.

#### **Operation of Legislation in Other Islands of the Bailiwick**

153. Guernsey's current mental health legislation extends to the islands of Guernsey, Sark, Herm and Jethou; the compulsory transfer of patients from Alderney is governed by The Mental Treatment (Transfer of Patients from Alderney) Law, 1952.
154. Following consultation with Alderney and Sark, it has been agreed that if compulsory admission to hospital is considered necessary, an Assessment Order can be applied and transfer of the person to Guernsey arranged. The application and recommendation would confer formal authority to transfer the person to Guernsey. The transfer should be completed within seventy-two hours of an Assessment Order being approved by a Law Officer.
155. Where an Approved Social Worker is not available in person to make an application, the nominated person may make the application. If the nominated person or nearest relative is unwilling to make an application, a Jurat may do so in Alderney and the Seneschal, or Deputy Seneschal, in Sark. An Approved Social Worker should be contacted and informed that an application has been made.
156. In Sark, where General Practitioners are not registered by the Board of Health, the medical recommendation should be made by a doctor approved by the Sark Medical Committee.

#### **Consultations**

157. The Board has worked closely with the Law Officers at all stages of drafting the proposals for the new legislation.
158. The Board consulted widely on the initial proposals in June 2001. Responses were received from the following external parties:

States Housing Authority, Medical Specialist Group, The Island Medical Centre – Alderney, Civil Service Board, Constables of St Andrew, Carey Langlois Advocates, British Medical Association - Guernsey Branch, St John Ambulance and Rescue Service, Public Assistance Authority, Guernsey Social Security Authority, Primary Care Committee, Constables of St



Pierre du Bois, Constables of St Peter Port, MIND, Children Board, Ozannes Advocates, Guernsey Police, Clerk of the States – Alderney, Medical Committee – Sark.

159. The main issues raised as a result of the consultation process were:

- role of nearest relative
- approved social workers
- appeals
- children and young people
- duration of treatment orders
- medical recommendations
- police urgency orders

160. Consequently, further consultations took place with the Board's Medical Advisory Committee, The Children Board, the Primary Care Committee, Guernsey Police, Sark Medical Committee and the Law Officers.

161. Issues raised through consultation have been addressed in the proposals set out in this document.

### **Budgetary Provision**

162. The recurring budgetary requirements arising from the introduction of new mental health legislation include:

1 mental health law administrator	£ 27,000
2 additional Approved Social Workers	£ 70,000
Review Tribunal costs	£ 10,000 (estimated)
Total	<u>£107,000</u>

163. The cost of creating the infrastructure required to introduce these proposals has been estimated at £6,000. This will cover issues such as the cost of preparing the new documentation and staff training packages.

### **Effect on Staff numbers**

164. The need for an additional 2.0 FTE to support the appointment of Approved Social Workers has been identified to enable twenty-four hour cover to be provided as currently there is no formal service outside office hours. These posts form part of the Board's 2002 Policy & Resource Planning submission.

165. Of the existing social workers, two would have the necessary qualifications and experience to be granted Approved Social Worker status. Options are being explored to identify ways in which the necessary training for other social workers could be provided.

166. The post of Mental Health Law Administrator will be required to oversee the day-to-day operation of this new legislation. The postholder will play a crucial part in ensuring that individuals subject to the legislation are aware of their rights, manage the review tribunal process and provide on-going training to staff who will have to work within the framework of this legislation.



**Conclusions**

167. The proposals set out in this document outline the action the Board believes is necessary to modernise existing mental health legislation, bring it into line with best practice elsewhere and promote compliance with relevant human rights legislation.

**Recommendations**

168. The Board of Health recommends the States:

- To approve that legislation be enacted for the Bailiwick on the lines set out in this report.

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.

Yours faithfully

P J ROFFEY

President  
States of Guernsey Board of Health

## **Appendix 1**

### **Glossary**

N.B. All references to “he/him etc” shall be taken to include “she/her etc”

**Approved Social Worker (ASW):** (see also paragraphs 20-31)

A social worker formally approved to act as an Approved Social Worker.

An Approved Social Worker will hold a Diploma in Social Work or Certificate of Qualification in Social Work or Certificate in Social Services and will have followed a course of Approved Social Worker training approved by the Board of Health.

**Nominated person:** (see also paragraphs 13-19)

A person who is chosen by a person subject to the provisions of this legislation, to act in his interests and for whom he gives consent for information about his care and treatment to be shared. The Nominated person may be a family member, carer, friend, neighbour etc.

**Mental Health Law Administrator:**

The post of Mental Health Law Administrator will be responsible, on behalf of the Board of Health, for the efficient operation of the administrative aspects of this legislation.

**General Practitioner:**

A doctor who is registered by the Board of Health to practice in the islands of Guernsey, Alderney, Herm and Jethou, under the Doctors, Dentists and Pharmacists Ordinance, 1987. In Sark, where General Practitioners are not registered by the Board of Health, a doctor approved by the Sark Medical Committee.

**Responsible Medical Officer:**

The doctor into whose care a patient is admitted. With the exception of a Medical holding power, the Responsible Medical Officer will be a Consultant Psychiatrist appointed by the Board of Health.

**Medical Officer:**

A doctor who has responsibility for a patient’s care delegated to him by a Responsible Medical Officer. The Medical Officer may be a Consultant Psychiatrist or an Associate Specialist appointed by the Board of Health.

**Consultant Psychiatrist:**

A doctor who, by benefit of his qualifications, skills and experience has been appointed to the position of Consultant Psychiatrist and who is registered by the Board of Health to practice in the islands of Guernsey, Alderney, Herm and Jethou, under the Doctors, Dentists and Pharmacists Ordinance, 1987.

**Mental Health Review Tribunal:** (see also paragraphs 88-98)

The Mental Health Review Tribunal is the body to which patients who are formally detained under an Assessment, Treatment or Community Order, may formally request that the continued application of these orders be reconsidered.

**Named Supervisor:**

The person appointed to have the authority to exercise powers conferred by a Community Treatment Order. The Named Supervisor may be an Approved Social Worker, Community Mental Health Nurse or a Social Worker with mental health background.

**Officer:**

An employee of the States employed, in any capacity, to provide care to an individual suffering from a mental disorder.

Appendix (A)												
Type	Duration	Application	Recommendation	Appeal	Renewable							
Civil Admission	Assessment	28 Days	NP/ASW	1 Medical	Yes	No						
	Treatment	6 Months	NP/ASW	2 Medical	Yes	Yes						
	Community	6 Months	NP/ASW	2 Medical	Yes	Yes						
	Police Urgency	72 Hours	Police Officer		No	No						
Criminal Admission	Remand	28 Days	Court	1 Medical	Yes <sup>1</sup>	Yes						
	Treatment	6 Months	Court	2 Medical	Yes <sup>2</sup>	Yes						
	Prisoner Transfer	6 Months	Court	2 Medical	Yes <sup>2</sup>	Yes						
Voluntary Admission	Medical Holding	72 Hours		RMO or Deputy	No	No						
	Nurse Holding	6 Hours		R.M.H.N.	No	No						
	No Restriction											
New Mental Health Law - Core Components												

1 - In respect of remand for treatment only

2 - Restrictions may apply

1 - In respect of remand for treatment only

2 - Restrictions may apply

**(NB The States Advisory and Finance Committee supports the proposals.)**

The States are asked to decide:-

XVIII.—Whether, after consideration of the Report dated the 25th October, 2002, of the States Board of Health, they are of opinion:-

1. To approve that new Mental Health legislation be enacted for the Bailiwick on the lines set out in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

**STATES BOARD OF INDUSTRY**

**BAILIWICK INTELLECTUAL PROPERTY LEGISLATION AND ECONOMIC  
OPPORTUNITIES IN A KNOWLEDGE ECONOMY**

The President  
States of Guernsey  
Royal Court House  
St Peter Port  
Guernsey GY1 2PB

21 October, 2002

Dear Sir

**BAILIWICK INTELLECTUAL PROPERTY LEGISLATION AND ECONOMIC  
OPPORTUNITIES IN A KNOWLEDGE ECONOMY**

**1      INTRODUCTION**

- 1.1**      Intellectual Property covers a very wide area of economic activity and artistic creation. It is an integral part of a modern economy and is seen as playing a vital role in the development of trade and knowledge in the 21<sup>st</sup> Century.
- 1.2**      This letter examines the concept of intellectual property and its role in a modern economy. It identifies the steps needed to bridge the gap between the current regime and what is required to secure future economic success for the Bailiwick.
- 1.3**      The potential costs as well as the benefits of a new approach are analysed and a set of recommendations proposed which embrace a substantial body of new legislation and compliance with international treaties.

- |  |
|--|
| <p><b>1.4</b>      <b>Without the development of intellectual property protection meeting international standards, existing industries will be compromised and may fall back in international competitiveness. With an intellectual property system and legislation meeting international standards, the Bailiwick will have national and international opportunities to develop trade and commerce in knowledge. This policy letter sets out the case that these opportunities are strategic and could be of substantial economic benefit to the Bailiwick.</b></p> |
|--|

## **2 THE CONCEPT OF INTELLECTUAL PROPERTY**

### **2.1 Forms of Intellectual Property**

**2.1.1** In broad terms “intellectual property” describes the legal, economic and personal rights which result from intellectual activity in the industrial, scientific, literary and artistic fields. Laws have developed to protect intellectual property for two main reasons:

1. to give statutory expression to the personal and economic rights of creators together with their creations and the rights of the public in accessing those creations;
2. to promote, as a deliberate act of policy, creativity and the dissemination and application of its results in a way which encourages fair trading and contributes to economic and social development.

**2.1.2** Within this context intellectual property is seen as a key component of a knowledge economy<sup>1</sup> offering opportunities for high value added businesses and new/innovative products or services to the public.

**2.1.3** The Convention establishing the World Intellectual Property Organisation (WIPO), concluded in Stockholm on July 14<sup>th</sup>, 1967 (Article 2 (VII)) provides that “intellectual property shall include rights relating to:

- Literary, artistic and scientific works,
- Performances of performing arts, phonograms (written music – performed live and recorded) and broadcasts,
- Inventions in all fields of human endeavour,
- Scientific discoveries,
- Industrial designs,
- Trademarks, service marks, and commercial names and designations,
- Protection against unfair competition,

and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.”

**2.1.4** Intellectual property rights have been developing over the past few centuries, particularly since the Paris Convention for the Protection of Industrial Property of 20<sup>th</sup> March 1883 established the first international agreement in intellectual property. From this point, the importance of intellectual property within national economies and international trade has grown considerably. It is now recognised that the investment, development and ownership of intellectual property is as important to a knowledge economy as the development of land ownership and agrarian practices was to the Agricultural Revolution or the technological developments and private ownership of goods and services to the Industrial Revolution.

### **2.2 Ways of Protecting Intellectual Property**

**2.2.1** Intellectual property can be protected in a number of ways, depending on the nature of the intellectual property or the concept or the idea. The three main means of protection are copyright, trademarks and patents, but there are also a number of other systems, such as those for protecting designs, electronic circuits and plant varieties. It is also possible to protect ideas and processes through “trade secrets”. Trade secrets are a non-registerable right and depend upon confidentiality for their protection.

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<sup>1</sup> The “knowledge economy” refers to the development, application and trade in knowledge for economic and social benefit.

### **3 CONSTITUTION OF THE INTELLECTUAL PROPERTY REVIEW TEAM AND CONSULTATION PROCESS**

- 3.1** In August of 2000 the Board of Industry was commissioned by the Advisory and Finance Committee to undertake an evaluation of the Bailiwick's intellectual property legislation and the costs and opportunities presented by intellectual property developments. Due to the specialist and complex nature of Intellectual Property Law, it was decided to establish an Intellectual Property Steering Group under the chairmanship of Deputy John Langlois, Vice-President, Advisory and Finance Committee. The Steering Group included representatives of Alderney and Sark, a Patent Attorney, representatives of the legal professions and commercial interests in the Bailiwick, senior members of staff from the Board of Industry and the Advisory and Finance Committee. The Board is pleased to record that the authorities in Alderney and Sark concur with these proposals.
- 3.2** The intellectual property review was undertaken by the Board of Industry's Economic and Strategic Adviser assisted by a Crown Advocate. Following a tendering process specialist consultants DTZ Pida Consulting were commissioned to evaluate the economic costs and benefits of a new approach to intellectual property. While Denton Wilde and Sapte an international law firm based in London, were commissioned to review the legislative requirements.
- 3.3** A consultation was undertaken as part of the review and the contributions of members and companies in the legal, financial, commercial, educational, enforcement services (Police, Customs, Trading Standards) is gratefully acknowledged.

### **4 OBJECTIVES FOR THE REVIEW OF THE BAILIWICK'S INTELLECTUAL PROPERTY**

The requirement to update the Bailiwick's Intellectual Property Legislation was driven by three factors:

#### **4.1 International Standards**

- the need for full compliance with international trading standards in intellectual property as represented by the World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). This agreement established the fundamental principles and standards governing the protection of intellectual property for international trade and is explained in more detail in Section 5.0.

#### **4.2 Economic Opportunities**

- a desire to capitalise on opportunities offered by the Bailiwick's commercial/business interests, which will have new and sometimes complex intellectual property protection requirements; and

#### **4.3 Intellectual Property as a potential future Income Stream**

- a desire to enhance the Island's attractiveness for intellectual property activity as a business stream in its own right.

#### **4.4 The objectives of the review**

- review the Bailiwick's existing intellectual property legislation and consider the need for new legislation in the light of the TRIPS international agreement and economic opportunities for the Bailiwick;



- review the costs and benefits to existing industries within the Bailiwick of modern legislation;
- consider the intellectual property needs of knowledge economy businesses, assessing the potential for these activities within the Bailiwick and the extent to which their development would be enhanced by a modern intellectual property environment;
- consider the costs and benefits of registration facilities within the Bailiwick for both existing and potential business activities;
- consider the international trade in intellectual property and produce a strategic framework through which the Bailiwick's interests in intellectual property can be developed internationally;
- consider the social implications and ensure compliance with human rights legislation.

## **5 TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS)**

- 5.1** TRIPS is one of the three essential elements of the World Trade Organisation ("WTO") Agreement which was concluded at the Uruguay round of the General Agreement on Trade and Tariffs (GATT) in April 1994. Compliance with TRIPS is a requirement for countries that have acceded to the WTO Agreement and TRIPS therefore binds all members of the WTO. TRIPS builds on, but goes further than the Paris Convention, 1883 in laying down the minimum standards for intellectual property rights. It covers the terms of the rights, the judicial and administrative procedures and the enforcement of the rights. TRIPS can also be used in developing new areas of intellectual property by applying the international principles set out in the Agreements.
- 5.2** Jurisdictions meeting the TRIPS standards are recognised as meeting the international trading standards for intellectual property rights. TRIPS compliance is also seen as part of the general international standard for the development of trade and commerce.
- 5.3** The UK Government would welcome the extension of the Agreement to the Bailiwick. By meeting the TRIPS standards, the Bailiwick therefore secures its international trading relationships. TRIPS compliance is one of three steps which would allow the Bailiwick to progress to an application of the overall WTO Agreement to the Bailiwick should this be considered beneficial.
- 5.4** The following is a brief summary of the provisions and principles of TRIPS:

Part I of TRIPS contains general provisions setting out the basic principles. In particular:

- i. that there are minimum international standards for protecting intellectual property. Members may give more extensive protection if they wish, provided that this does not contravene the Agreement;
- ii. there is a confirmation of existing obligations under other treaties and conventions;
- iii. the requirement that members afford the nationals of other members no less favourable treatment in intellectual property protection than is afforded to their own; and
- iv. the requirement that where nationals of members are afforded any favour or privilege, this is afforded to all members.

- 5.5 Part II of TRIPS contains the minimum standards concerning the availability, scope and use of the specific intellectual property rights. In broad terms these cover:
- copyright and related rights
  - trademarks
  - geographical indicators
  - industrial designs
  - patents
  - layout designs of integrated circuits and
  - the protection of undisclosed information (trade secrets).
- 5.6 More detail on these rights is given in the section on intellectual property rights for the Bailiwick. It is proposed that in future Bailiwick intellectual property rights will conform to TRIPS standards.
- 5.7 Part III deals with the enforcement of intellectual property rights, including general obligations as to enforcement procedures, decisions, appeals, remedies and evidence.
- 5.8 Part IV recognises the right of members to impose reasonable procedures and formalities for obtaining intellectual property rights and imposes general requirements on the availability of opposition, revocation and cancellation procedures and appeals.
- 5.9 Part V requires transparency in the publication of information about laws and regulations, judicial and administrative decisions, and the notification of laws to the TRIPS Council.

**5.10 Compliance with the TRIPS Agreement is a fundamental aspect of national and international trade, has the support and encouragement of the UK Government and is an essential part of the Bailiwick's intellectual property strategy.**

## **6 THE CURRENT POSITION OF THE BAILIWICK'S INTELLECTUAL PROPERTY LEGISLATION**

- 6.1 The Bailiwick's current legislation in the area of intellectual property dates back to 1911 (copyright) and 1922 (patents, registered designs and trademarks). Confidentiality and trade secrets are protected through the extension of the UK Common Law through the judicial system.
- 6.2 Whilst the current laws do provide a very basic form of intellectual property protection, they are largely based on the concepts and scope of intellectual property defined in the late 19<sup>th</sup> and early 20<sup>th</sup> Century. For registerable rights a cumbersome re-registration procedure is required via the UK Patent Office with registrations being issued under the seal of the Patent Office, a copy of the UK grant is attached to the application documentation to be filed by an advocate.
- 6.3 Over the last 100 years the world of commerce and economic activity, as it affects the field of intellectual property, has changed significantly. These changes include:
- technological advances – the introduction of a wider range of recorded media and forms of publishing which has multiplied the means by which intellectual property can be reproduced, whilst the Internet has created major opportunities and challenges across virtually every sector of economic activity;
  - scientific advances – areas of scientific research have advanced rapidly, necessitating suitable protection for scientific discoveries in fields such as biotechnology;
  - globalisation – business activity is increasingly dominated by enterprises that trade across national boundaries, generating a need for protection of intellectual property

across a range of countries. The progress of national recognitions via European wide and international intellectual property treaties and conventions has reduced the need for multiple national registrations in some intellectual property areas.

- 6.4** The problems with the Bailiwick's existing legislation are that it is not fully TRIPS compliant (and therefore does not meet international trading standards), does not recognise electronic media and fails to offer a rapid and effective business friendly means of registration. It is therefore in need of updating to take account of the major changes that have taken place in intellectual property. This point was emphasised many times during the consultation process by those involved in the Bailiwick's legal, business and commercial fields.
- 6.5** The developments in the intellectual property field underline the need for intellectual property legislation that fully reflects the current range of activities, many of which are based on knowledge and ideas that would have seemed inconceivable when the legislation was first introduced.

- 6.6** **Without suitable legislation in place, the intellectual property environment may hold back business development within the Bailiwick and may discourage the development of valuable areas of future economic activity. Furthermore, a weak intellectual property environment may also attract undesirable forms of business activity such as economic piracy which can take on a global dimension through the availability of electronic telecommunications.**

**Given the vast gap between the Bailiwick's existing legislation and the needs of the 21<sup>st</sup> Century trading environment, the starting point for the review was a "blank sheet of paper" rather than attempt to evolve and develop the existing Laws of 1911 and 1922.**

## **7 A REVIEW OF THE ECONOMIC OPPORTUNITIES AND COSTS IN UPDATING THE BAILIWICK INTELLECTUAL PROPERTY LEGISLATION**

- 7.1** In considering the requirements for the Bailiwick's intellectual property legislation the economic, social and personal rights required in intellectual property for a 21<sup>st</sup> Century economy were reviewed. In particular an analysis of the economic impact in terms of costs and benefits was carried out in conjunction with DTZ Peda.

### **7.2 Intellectual Property and the Bailiwick Economy**

In reviewing the potential economic impact of intellectual property to the Bailiwick it is first necessary to consider some further aspects of intellectual property:

### **7.3 Value**

**Intellectual property provides between 30% and 75% of the asset value of modern companies.** Taking brand value<sup>2</sup> alone the value of the top 10 global brands headed by Coca-Cola and Microsoft is just under £250 billion. Britain's 10 most valuable brands are valued at just over £36 billion<sup>3</sup> and 6 of the top 10 British brands are banking/financial services companies. Unless this value is adequately protected, existing companies will be compromised commercially. New businesses which value intellectual property would not choose the Bailiwick as a trading location if the Bailiwick's intellectual property laws are weak or deficient.

<sup>2</sup> "Brand Value" refers the consumer perception and related added value of a product or service from the name or mark under which the product is sold.

<sup>3</sup> Source: brands valued by Interbrand as reported in *Business Week* July 2002.

#### **7.4 Innovation, creation, development**

Protecting the ownership of intellectual property rights stimulates innovation and development. Companies and individuals which produce creative or innovative ideas, often as a result of considerable research and development, are rewarded and safeguarded by the remedies set out against piracy or unlawful copying. Innovation, enterprise and artistic expression can therefore flourish in a secure intellectual property environment where the inventor/originator is recognised and rewarded through the availability of the invention/artistic work to the general public.

#### **7.5 The following key features of intellectual property are well matched with the needs of the Bailiwick economy i.e.:**

- Very high added value.
- Low transportation cost.
- Minimal land or space requirements.
- Low labour requirement but high requirements for expertise/creative skills.
- Forms an integral part of telecommunications/e-business/knowledge economy development strategies.
- Presents an economic opportunity that can be created and is not dependent on intrinsic physical resources such as exhaustible raw materials.
- Encourages and promotes innovation, enterprise and artistic expression in society.
- Seeks to provide a balance of reward for the innovator and provide public access to the benefits of innovation/artistic work.

#### **7.6 The Benefits of Developing the Bailiwick's Intellectual Property**

Taking each sector of the economy the potential benefits of a modern intellectual property environment were identified:

- Economy wide:
  - compliance with TRIPS for international trade;
  - development of existing and new areas of economic activity;
  - discouragement of undesirable forms of activity e.g. piracy;
  - simplified processes and reduced administration costs for businesses;
  - greater consistency with other major jurisdictions in the intellectual property field.
- Financial and fiduciary services:
  - Financial services are increasingly developing brand value associated with their company or product services. Protecting the brand value through trademark registration is an essential first step in managing a company's intellectual property rights. Trusts operating intellectual property portfolios on behalf of clients could maximise the intellectual property value through appropriate fiscal and fiduciary arrangements.
- Digital asset management and database management:
  - Within the e-business strategy a secure intellectual property environment will benefit this area of activity including businesses acting as: application service providers, managing databases or undertaking media streaming, or online music provision. Internet piracy and royalty evasion will not be permissible from Bailiwick sites.
- Intellectual property business stream:
  - Businesses will be encouraged to manage intellectual property from the Bailiwick.

- Creative industries:
  - Publishers, designers, architects, writers, performers will have clearer and stronger laws protecting their intellectual property rights and enabling the licensing of rights separate from the sale of the design or publication.
- Commerce and industry:
  - Trademark protection will be in line with International Standards strengthening the management of brands from the Bailiwick. Patent law will be updated encouraging innovation within Bailiwick industries.
- Horticulture:
  - Plant breeders will be able to protect breeds within the Bailiwick and so encourage plant breeding companies to establish locally. Companies looking to the Bailiwick for the production of high value crops such as pharmaceutical plants will require plant variety rights protection, and also potentially plant patents.
- Biotechnology:
  - The development of any biotechnology industries will be longer term but intellectual property biotechnical registrations could develop quite rapidly in the next few years if European biotechnical developments follow the American pattern.
- Retail services and consumer protection:
  - The intellectual property laws will provide improved consumer protection, for example protection against fraud and counterfeit goods.
- Employer and employee rights:
  - The rights of both employers and employees will be clearly established in relation to the law on intellectual property. Employer ownership of a company's intellectual property rights will be clearly established with appropriate provisions for employees.
- Human rights and social need:
  - The legislation is designed to be compliant with human rights and recognise the particular needs for social groups with special needs, for example the disabled. Exceptions to the rights for educational and research purposes will provide free access to published information, where there is an educational benefit to the individual or society. These special provisions will protect the learning opportunities of students, the educational use of information and material and the lending of books or related material through public lending libraries. The rights to privacy and confidentiality for companies or individuals will not be affected by these provisions as there is no right of access to confidential information/trade secrets.

**7.7 Intellectual property is an essential part of business, commercial and civic activity in the 21<sup>st</sup> Century for a developed economy such as the Bailiwick. Without an adequate intellectual property environment there is the danger that existing businesses and enterprises will decline and the commercial activity of the Bailiwick could be compromised in areas of international trade.**

**7.8** If a more secure intellectual property environment is established, it is likely to provide a stimulus to sustainable growth in the economy over the medium to long term. Estimates based on the work carried out by the Board of Industry in conjunction with DTZ Pieda, suggest that over a five-year period from the establishment of the intellectual property environment, these sectors could contribute at least an additional £15 million annually to gross domestic product and potentially a very much higher figure.

- 7.9** It should also be stressed that whilst the creation of a secure intellectual property environment will be an important factor in facilitating the growth of these activities, it will not be sufficient in isolation to achieve these results. Much will depend on external factors such as the Bailiwick's activities to promote and attract intellectual property related activities, the development of skills and expertise in intellectual property within the economy, technological and scientific developments, e-business developments and the Bailiwick's performance relative to other competing business locations.
- 7.10** The economic opportunity will come about by developing intellectual property rights within a commercial context in conformance with international standards and recognising the social and moral issues associated with intellectual property.

**7.11 The Costs of Developing the Bailiwick's Intellectual Property**

Some direct and indirect costs were identified in developing the Bailiwick's intellectual property legislation. These were:

**Direct costs**

- 7.11.1** Neither the Board nor the Law Officers of the Crown possessed all the specialist resources in-house necessary to undertake the review, advise on the economic aspects of intellectual property and the need for legislation as described in this report. Accordingly, and with the agreement of the Advisory and Finance Committee, to date a total of £100,000 has been spent on consultancy.
- 7.11.2** While the drafting of the new legislation proposed in this report will be undertaken by the Law Officers, it is possible that the drafting of the ordinances, which will cover particularly specialist and complex areas, and the preparation of detailed drafting instructions, may require access to specialist advisers. At this stage the Board is not in a position to quantify the likely cost of such advice, but an initial estimate is that it could be in the region of £50,000-£150,000.
- 7.11.3** There will be further direct costs in establishing and operating a Bailiwick intellectual property office which is described in section 9.

**Indirect costs**

- 7.11.4** While strong intellectual property protection will represent an advantage for most companies within the Bailiwick, there are a limited number of companies who derive benefit from the shortcomings of the current legislation. Indeed, the sector which will face additional costs is rose cut flower production which could be liable for plant variety royalties in excess of £100,000 per annum based on current rose planting estimates. With this in mind particular attention has been paid to the transition arrangements for horticultural enterprises in order to minimise the impact of any additional costs in this sector and maximise economic opportunities for that industry.

Social and educational costs could be incurred if there were no provision for people with special needs and for educational requirements. These have been considered in the development of the appropriate areas of legislation so no social or educational costs are anticipated.

**7.12 Overall benefit**

**Overall there is a considerable potential economic benefit to the Bailiwick in developing an appropriate modern legislative environment for its intellectual property. The gains to existing and potential business streams are substantial. The direct costs are relatively low and have been specifically defined.**

**In contrast the cost to the Island's commercial, economic activities and international trading relations of not developing an appropriate intellectual property framework could be very significant and detrimental to the Island's economic development and international standing in the long term. There is therefore a clear case from the study for modernising and developing the Island's intellectual property environment.**

**8 SHAPE OF THE BAILIWICK INTELLECTUAL PROPERTY ENVIRONMENT**

**8.1** There are ten strategic aspects to consider in relation to the particular form and scope of the Bailiwick's intellectual property legislation. These are:

1. TRIPS compliance – The requirements for TRIPS compliance have been set out in section 5. The proposals contained in this policy letter will ensure TRIPS compliance for the Bailiwick.
2. Maximisation of the economic benefit for the Bailiwick – The economic benefits have been set out in section 7. The Bailiwick's particular requirements for intellectual property have been proposed with the strategy of maximising the economic potential for the Bailiwick in this key component of a 21<sup>st</sup> Century knowledge economy.
3. Form of legislation required – see section 8.2.
4. Scope of intellectual property rights – see section 8.3-8.4.
5. Registration requirements – see section 8.5.
6. E-business considerations – see section 8.6.
7. Horticultural considerations – see section 8.7.
8. International recognition and access to international agreements – see section 8.8. – 8.9.
9. Social and ethical considerations – see section 8.10.
10. Administration of justice and enforcement of intellectual property rights – see section 9.

**8.2 Form of Legislation Required**

It is proposed to split the legislation requirements into two areas:

- 8.2.1 Primary Legislation** which will provide the powers or “*vires*” from which the Bailiwick can create and amend its intellectual property legislation as required. The primary legislation will define the scope, powers, enforcement procedures, regulations and registration fields within which the specific intellectual property rights can be drafted by ordinance. It will also provide the legal powers for the establishment of a Bailiwick intellectual property office to register and administer the rights.



- 8.2.2** **Ordinances** will set out the specific rights for intellectual property and will establish the Intellectual Property Office. The ordinances will be enacted by the States of Guernsey in respect of the whole of the Bailiwick.
- 8.2.3** The primary areas of intellectual property covered by ordinances will include trademarks, copyright, patents, design rights and plant variety rights.
- 8.2.4** Given that compliance with intellectual property is required throughout the Bailiwick and because the economic opportunities offered by the development of intellectual property apply to all the Islands, both Alderney and Sark have been included in the legislative process from the beginning.
- 8.2.5** The two stage process of the development of the legislation offers the advantages of greater speed and flexibility in the development and adaptation of future intellectual property legislation. The ordinances setting out detailed legislation will be processed by the States without the need to refer to the Privy Council thereby saving considerable time. This is important because globally the area of intellectual property law is one which is developing rapidly. It will be important therefore for the Bailiwick to be able to respond speedily to the changing legislative environment to maximise the benefits to the Island communities.
- 8.2.6** The Bailiwick's intellectual property law will be based upon the principles and practices established in international law under TRIPS and upon existing legislation in other jurisdictions.
- 8.2.7** In order to establish the appropriate bases for the different areas of legislation an international review of intellectual property legislation was carried out by Denton Wilde and Sapte. The review concluded that the main body of the law should be based upon legislation in the UK and European Union. Appropriate adaptations from other jurisdictions will be incorporated where these improve the area of law in question or give access to other areas of intellectual property rights.
- 8.2.8** In summary the main requirements set out for the Bailiwick's intellectual property legislation are as follows:
- The provision of “umbrella” legislation giving a flexible legal framework for intellectual property under which subordinate legislation can be made appropriate to the legal and economic requirements of the Bailiwick;
  - Consistency with another major jurisdiction (European Union), to facilitate interpretation of the legislation and promote consistency of associated legal advice;
  - Ability to operate in both the European, American and Asian intellectual property areas;
  - Compliance with TRIPS;
  - Compatibility with the needs of both the existing economic activities and the potential new knowledge based activities within the economy.

### **8.3 Scope of Intellectual Property Rights**

To protect the value in intellectual property (the “value” may be economic, social or personal), rights have been established under international law. Intellectual property can be protected in a number of ways, depending on the nature of the concept or the idea. The three main means of protection are copyright, patents and trademarks, but there are also a number of other systems, such as those for protecting designs, electronic circuits and plant



varieties. It is also possible to protect ideas and processes through “trade secrets” under the UK Common Law. The following rights are proposed for the Bailiwick’s intellectual property legislation:

### **Copyright**

- 8.3.1** Copyright law is a branch which deals with the intellectual rights of creators. It deals with particular forms of creativity, concerned primarily with mass communication. It is concerned also with virtually all forms and methods of public communication, not only printed publications but also with such matters as sound and television broadcasting, films for public exhibition in cinemas and even computerised systems for the storage and retrieval of information.
- 8.3.2** Copyright includes not only works which exist only when they are embodied in a physical object, such as a book or a painting, but can exist in other forms. For example, a musician composing and performing a piece of music is protected, even though at that stage the music that he has performed has not been written down.
- 8.3.3** Furthermore, copyright law protects only the form of expression of ideas, not the ideas themselves. The law protects the owner of the rights in artistic works against those who “copy”, that is to say who take and use the form in which the original work was expressed by the author. Examples of areas covered by copyright include: literary works, musical works, artistic works (whether two dimensional e.g. drawings, paintings or three dimensional as in sculptures or architectural works), maps and technical drawings, photographic works, motion pictures, computer programs, choreographic works, broadcast works.
- 8.3.4** A number of rights are comprised or are derived from copyright. These are:
  - i. The Right of Reproduction and Related Rights – This is the right of the owner of the copyright to prevent others from making copies of his works and is the most basic right under copyright.
  - ii. Performers’ Rights – This is a particular right protecting for example, public readings, dramatic and musical performances before an audience.
  - iii. Recording Rights – This is a right related to the act of making sound recordings of a work protected by copyright.
  - iv. Motion Picture Rights – This right protects a visual recording given to viewers through a motion picture.
  - v. Broadcasting Rights – The broadcasting rights are a major category of rights covering public communication through radio, television or cable communication systems.
  - vi. Translation and Adaptation Rights – This is a right requiring authorisation of the copyright owner for the act of translating or adapting a work protected by copyright.
  - vii. Personal Rights (otherwise known as “Moral Rights”) – Personal rights of authors are the right to claim the authorship of a work and the right to object to any distortion, mutilation or other modification of the work which would be prejudicial to the author’s honour or reputation. These rights which are generally known as the “Personal or Moral Rights of the Author” are required to be independent of the usual economic rights and to remain with the author even after he has transferred his economic rights.

## Patents

- 8.3.5** A patent is a document, issued, upon application, by a government office which describes an invention and creates a legal situation in which the patented invention can normally only be exploited (manufactured, used, sold, imported) with the authorisation of the owner of the patent.
- 8.3.6** “Invention” means a solution to a specific problem in the field of technology. An invention may relate to a product or a process. The protection conferred by the patent is limited in time (generally 20 years).
- 8.3.7** To be patentable an invention must:
- be of a patentable subject matter;
  - be industrially applicable (useful);
  - be new (novel);
  - exhibit a sufficient “inventive step”.
- 8.3.8** Patents have been the main means of protecting technical and industrial discoveries and are seen as a key component in advancing technical and economic development.
- 8.3.9** “Petty patents” are a less rigorous form of patent conferring a lower level of protection. They are thought to be particularly useful for indigenous industries seeking local protection for their invention.

## Trademarks

- 8.3.10** A trademark is any sign that separates the goods of a given enterprise and distinguishes them from the goods of competitors. The mark may be distinguishable by words, numerals, drawings, colours, three-dimensional signs, in some jurisdictions audible signs and smells have also been registered where these are associated with a particular good or service.
- 8.3.11** Trademarks are one of the major devices in the creation, identification and protection of brands. Brand value is one of the most significant assets that a company or commercial process owns with respect to its product or service – *reference section 7 on brand value*.

## Design Rights (Unregistered and Registered)

- 8.3.12** “Design” means the appearance of the whole or part of a product resulting from the features of its shape, colour, texture and/or materials of the product itself and its ornamentation. Unregistered design rights provide a shorter period of protection but without the requirement for any registration. This type of “right” suits the short lifecycle and sheer number of new designs in the fashion industry for example. Registered designs provide a longer period of protection but require a prior registration process before they become effective. Registered designs are more suitable for longer lifecycle products for example the design of motor vehicles.

## Database Rights

- 8.3.13** The database right (*not to be confused with the Data Protection Act*) gives the creator of the database the right of protection of the database against anybody who extracts or uses the database. Databases are a key component of commercial trade and this right was seen as a valuable economic advantage when the EU Directive on database rights was passed.
- 8.3.14** This right is not available in America and goes beyond the original scope of TRIPS. In order to have a database protected by this right the people holding the right must either be

citizens of the European Union or citizens of a jurisdiction which has been recognised by the European Union as providing an equivalent level of protection to databases within their own country. The Bailiwick would therefore need to notify and apply to the European Union in order to have this equivalent level of protection for individuals or companies operating within the European Union.

- 8.3.15** The right is very comprehensive and could in some instances become a hindrance to knowledge transfer and communication, if inappropriately applied. Exceptions to the use of the right in relation to public research, education and the provisions for granting compulsory licences on the use of rights are therefore to be incorporated within the legislation.

#### **Biotechnical Rights**

- 8.3.16** Biotechnical rights cover the areas of plant patents, genetic codes and biotechnical processes. Biotechnical rights are an integral part of the new biotechnology industries. The considerable risk and investment in these new technologies is made economic by the possibility of a successful outcome of the research which can be commercially applied and registered for protection as a biotechnical right.

#### **Plant Variety Rights**

- 8.3.17** Plant varieties can be tested at recognised national offices and registered as a distinct variety by the plant breeder. The submitted plants are tested whether they are distinct, uniform and stable across the climate range of the registration jurisdiction. Plant breeding results in many of the new plants and plant products (vegetables, fruits, flowers) available on the market today. The investment in the plant breeding and selection process in which many thousands of non-commercial lines may be discarded, is made viable by the protection of the few varieties under plant variety rights, which meet the market requirements.

#### **Semi-Conductor Rights**

- 8.3.18** These are particular rights associated with semi-conductor chips.

#### **Integrated Circuit Topography Rights**

- 8.3.19** These are particular rights related to the technology and design of integrated circuits.

#### **Intellectual Property Rights and the Information Society<sup>4</sup>**

- 8.3.20** The commercial development of telecommunications technologies and the Internet came after the signing of the TRIPS Agreement on 1<sup>st</sup> January 1995. Subsequently it has been recognised that particular additional intellectual property rights are required for the Internet age and what has become known as the “Information Society”. In addition to adapting and building on the existing rights, such as copyright, new rights have been created and are recommended for inclusion within the Bailiwick’s intellectual property legislation portfolio. This will ensure that the Bailiwick offers all the opportunities for the development and commercial exploitation of the Internet technologies, as are available in other jurisdictions, which are also updating their intellectual property rights in accordance with the international standards set out for information society. These rights are:

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<sup>4</sup> “Intellectual Property Rights and the Information Society” refers to those rights which have been specifically developed to meet the challenges of the ownership and management of rights brought about by the development of the Internet and modern telecommunications.

- Rights of Distribution

This right gives the authors of literary and artistic works the exclusive right of authorising and making available to the public the original and copies of their works through sale or through the transfer of ownership.

- Rights of Rental

This gives the authors of computer programs, cinematographic works and works of written or recorded music the exclusive right or authorising commercial rental to the public of the originals or copies of their works.

- Rights of Communication to the Public

This gives the authors of literary and artistic works the exclusive rights of authorising any communication to the public of their works by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them.

- Rights of Reproductions for Performers

This gives performers the exclusive right of authorising the direct or indirect reproduction of their performances fixed in phonograms in any manner or form.

- Economic Rights of Performers in their Unfixed Performances

This gives performers the exclusive right of authorising the broadcasting and communication of their performances to the public.

- The Right of Remuneration for Broadcasting and Communication to the Public

This gives producers and producers of phonograms the right to an equitable remuneration for the direct or indirect use of their published work.

- Intellectual Property Protection for Technological Measures and Encryption Rights

This right provides protection for the technological measures and encryption systems used to protect recordings or software programs and is particularly relevant to telecommunications and the Internet industries. For example in order to protect a digital recording or a software program, recording companies or programmers, protect their works through an encryption system. However some individuals deliberately break the encryption code and then make that code available over the Internet, so that any user might then be able to copy or download the music or software program without first paying a registration fee. The technological measures/encryption protection right is therefore seen as a fundamental right for intellectual property in the Internet/information society age.

## **8.4 Other Areas of Intellectual Property Protection**

Intellectual property may also be protected by the following:

### **8.4.1 Trade Secrets**

- 1.1 Trade secrets are often used as the means for protecting intellectual property where the particular process involved in the provision of goods or a service is not evident in the final product. This typically occurs within the petrochemical

industry or food/drink industries where a secret process discovered by the manufacturer may be used in production and which cannot be determined or analysed in the final product. Perhaps the most well known product protected by trade secrets is the Coca-Cola drink.

- 1.2 The question then arises, if a process or invention can only be protected in law as long as it remains a secret, “how can other parties be brought into the production process without losing legal protection under trade secrets?” Typically this would happen when, for example, an inventor wants to licence his secret process to a manufacturer in order to be able to market the end product or service. This aspect is covered in law, by an agreement with the party receiving the knowledge of the trade secret, not to disclose the information to any other person or company and to keep the information a secret within their premises (e.g. in a safe, secure place). These agreements are often referred to as “non-disclosure” agreements.
- 1.3 The legal provisions covering trade secrets already exist within the Bailiwick by application of the UK Common Law. However the development of the other areas of intellectual property within the Bailiwick and the globalisation of its trade will mean that trade secrets, client confidentiality and non-disclosure agreements inevitably become more widely used in commerce and trade. An awareness, education and training need therefore arises in the commercial use of this area of intellectual property law.

#### **8.4.2 Geographical Indications**

- 2.1 The product “champagne” is a well-known example for a name which is associated throughout the world with a certain quality and location for the production of the champagne product. These geographical indications can acquire a high reputation and thus become valuable commercial assets. For this reason they are often exposed to copying, misappropriation, counterfeiting or forgery.
- 2.2 With the exception of design law there is probably no one category of intellectual property law which fully covers a geographical indication. However intellectual property law is being increasingly used to protect products and processes associated with a geographical region as well as the product or process itself. This application is evolving from case law through the application of intellectual property rights, principles and practices.

#### **8.4.3 Protection against Unfair Competition**

- 3.1 Protection against unfair competition has been recognised as forming part of intellectual property for almost a century. Under the Paris Convention 1883 unfair competition consists of “any act of competition contrary to honest practices”. Within intellectual property the areas particularly applied to acts of unfair competition include “confusion” in the marketplace or “passing off”. Under “passing off” a competitor deliberately confuses their product with a leading brand or established producer.
- 3.2 This protection is also of benefit to consumers by providing clarity and transparency in the marketplace. Consumers also benefit by the application of trademark rights which avoid confusing “marks”.
- 3.3 The new legislation proposed in this policy letter does not provide for any specific law to control unfair competition. The conclusion of the review was that the current legal remedies against “passing off” and violation of trade secrets, which are based on the application of common law, provide adequate protection against unfair competition.

## **8.5 Registration Requirements**

**8.5.1** Some intellectual property rights such as copyright, including computer software, performers' right, unregistered design rights and database rights, come into effect from the moment of their creation. Under TRIPS the Bailiwick simply needs to offer the same level of protection as is required for other countries under the Berne Convention (see International Agreements 8.8). There is no requirement for registration systems.

**8.5.2** Other intellectual property rights, including trademarks, design rights, patents, integrated circuit rights, plant variety rights and biotechnical rights require a system of registration to give effect to the rights. For each of these rights, the Bailiwick has the option of either:

1. Recognition of the rights granted in other jurisdictions

Recognition has the advantages of being low in cost and requiring no new legislation, once primary legislation recognising intellectual property laws in other jurisdictions has been introduced. However, on its own, it offers no unique economic opportunities or choice in the type of law appropriate to the Bailiwick.

2. Second or re-registration of a right granted in another jurisdiction through an intellectual property registration office

Re-registration has the benefit of ease of administration since all the testing and validity is first carried out by another national office. However it offers limited new economic opportunities as the rights granted are limited to those first passed in another jurisdiction.

3. Primary or first registration of a right through a local intellectual property office

Primary or first registration has been requested by many sections of Bailiwick commerce and industry as it offers the maximum economic opportunity. The economic opportunities offered by first registration within the Bailiwick include:

- i. a fast and efficient system for the registration process which could then be extended internationally through the various treaties and conventions;
- ii. a choice of the combination and scope of national registrations centred on the Bailiwick registration. For example a company that will wish to trade in America from a Bailiwick base would not wish to re-register through the UK Patent Office. Equally the UK Patent Office may not recognise that particular right;
- iii. the opportunity to create rights and an intellectual property environment which are uniquely tailored to particular commercial opportunities;
- iv. intellectual property businesses will often want a first local registration;
- v. a first registration system offers the Bailiwick a choice of legislation not available to the Islands if simply a recognition or re-registration system is adopted.

**8.5.3** A local registration office would undoubtedly also stimulate the development of expertise in intellectual property within the Bailiwick. However, some forms of registration for example patents, are very complex, would be costly to administer and require a very high level of expertise. It would be uneconomic to fully staff a local patent office. All forms of first or primary legislation also mean that the Bailiwick has the responsibility to keep its legislation updated as a jurisdiction.

## Registration Recommendations

**8.5.4** Having considered the various costs and benefits of the options with respect to the various intellectual property rights, the following registration recommendations are made:

- **No registration requirements for copyright, performers' rights and the related intellectual property rights.**
- **Registration for plant variety rights through the UK Plant Variety Rights Office – see horticultural considerations 8.7.**
- **First registrations for trademarks and registered designs.**
- **Registration for patents, biotechnological rights and integrated circuit rights.**

**8.5.5** It is proposed that there should be a first registration facility for trademarks and registered design rights. Both these rights have a straight forward search and validation requirement. The resources and expertise required are therefore manageable. Trademarks are also the intellectual property area currently requiring the most registration activity within the Bailiwick. The ability to register trademarks within the Bailiwick and then to access other national registrations through the extension of international agreements, will strengthen the opportunities for development of brand management and marketing businesses to operate from the Bailiwick.

**8.5.6** For patents, integrated circuit rights and biotechnology rights the proposed Bailiwick's intellectual property office could register any right which had first been passed through one of the recognised national or supra-national offices including the UK Patent Office, the European Patent Office, the American Patent Office, and possibly the Japanese Patent Office. The additional Bailiwick registration requirement would be that the right or patent in question is also submitted in English and does not conflict with any rights previously granted in the Bailiwick.

- **Recognition**

**8.5.7** Recognition for all international rights which do not conflict with the Bailiwick rights.

**8.5.8** This combination of registration systems for Bailiwick intellectual property rights would be in accordance with international standards as set out under TRIPS, offer the maximum flexibility and economic opportunity at the least financial cost. It will require few staff to develop and administer the process – *see section 10 Bailiwick Intellectual Property Office.*

## **8.6 E-Business Considerations**

**8.6.1** The particular considerations for e-business in the Bailiwick's intellectual property legislation are currently being developed with the Board's e-business team. They include the following:

- The patenting of software and business systems
  - Software and business systems can be patented and registered under American intellectual property rights. Europe is gradually moving towards a greater recognition of a patent right for software or business systems where these have a technical or technological effect. If a business is to be based in the Bailiwick but trade through telecommunication systems with jurisdictions based on American intellectual property law they will expect the same level of protection within the Bailiwick as they receive under the American law.
- Examining how best existing and proposed areas of intellectual property might be adapted and exploited within an e-business environment.



## **8.7 Horticultural Considerations**

- 8.7.1** Intellectual property will bring new opportunities and benefits to horticulture through encouraging the availability of new varieties, enhancing the Bailiwick as a location for plant breeding and plant patenting companies and strengthening the position of existing companies whose business is based around plant breeding and licensed growing systems. In this connection, the turnover of local horticultural enterprises involved in plant breeding and plant production now exceeds that of the cut flower and edibles sectors.
- 8.7.2** While the benefits are substantial, some flower growers will have to pay royalties on future purchases of new plant varieties. The costs to this sector could be in the region of up to £100,000 per annum. With this in mind, a number of actions that can be taken to minimise the impact of the new legislation for this sector and appropriate transition arrangements are under discussion with the Guernsey Growers' Association and the national/international authorities.
- 8.7.3** **It is expected that over the proposed transition period the benefits of the opportunities for the industry will significantly exceed any extra costs to horticulture.**
- 8.7.4** The testing of plant varieties to establish plant variety rights requires extensive facilities and would be costly to establish. The Bailiwick has the opportunity of using the facilities of the Plant Varieties and Seeds Office at Cambridge for the testing and first registration of plant varieties, providing the Bailiwick's laws on plant varieties are the equivalent of the UK Plant Varieties legislation. The UK legislation is considered appropriate for the Bailiwick and so it is proposed to model the Bailiwick legislation on the UK Plant Varieties Act 1997. This will permit a registration service through the Bailiwick Intellectual Property Office for plant varieties first tested and registered at the Plant Varieties and Seeds Office in Cambridge. There are considerable cost and resource savings from this arrangement compared with establishing a Bailiwick Plant Varieties Office.

## **8.8 The Extension of International Agreements on Intellectual Property and Access to International Aspects of Intellectual Property Rights**

- 8.8.1** A key aspect of all the systems of intellectual property is that they are geographically limited in scope. So, for example, a copyright infringement in the Bailiwick will be subject to the Bailiwick legislation, even if the original author of the work is based elsewhere. Similarly, an invention is only protected in those countries where the inventor has successfully applied for a patent. For this reason, businesses or individuals will generally require protection for their intellectual property in a number of jurisdictions. A variety of international treaties and conventions provides the means to secure mutual protection, or at least prior registration from one jurisdiction to another.
- 8.8.2** **The extension to the Bailiwick of international treaties and conventions in intellectual property will add greatly to the value of the Bailiwick's intellectual property environment.**
- 8.8.3** It is proposed that the following international conventions and agreements should be extended to the Bailiwick subject to the normal scrutiny process applied to International Conventions by the Advisory and Finance Committee:
- i. The Paris Convention for the Protection of Industrial Property, 1883 as amended 1979.
  - ii. The Berne Convention for the Protection of Literary and Artistic Works, 1886 as revised 1971 and amended 1979.



- iii. The Madrid Agreement concerning the International Registration of Marks, 1891 (1967 revision with 1979 amendments).
- iv. The Protocol relating to the Madrid Agreement concerning the International Registration of Marks, 1989.
- v. The Universal Copyright Convention, 1952 (1971 revision).
- vi. The Lisbon Agreement for the Protection of Appellations of Origin, 1958 (1967 revision with the 1979 amendments).
- vii. The Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, 1961.
- viii. UPOV Convention for the Protection of New Varieties of Plants, 1961 (1991 revision).
- ix. The Geneva Convention for the Protection of Producers of Phonograms against Unauthorised Duplication of their Phonograms, 1971.
- x. The European Patent Convention, 1973.
- xi. The Convention relating to the Distribution of Programme-carrying Signals Transmitted by Satellite, 1974.
- xii. The Treaty on Intellectual Property in respect of Integrated Circuits, 1989.
- xiii. The Patent Co-operation Treaty, 1978.
- xiv. The Patent Law Treaty, 1978.
- xv. The Patent Law Treaty adopted by Diplomatic Conference in Geneva, 2000.

**8.8.4** The International Conventions and Agreements listed above can be extended to the Bailiwick as part of the process of meeting the standards in the TRIPS Agreement of 1994. It is further proposed that the following treaties should be applied to Guernsey through the vehicle of the World Intellectual Property Office in order to address the special provisions for the Internet and the Information Society (these are important for Guernsey's future but are not currently a TRIPS requirement).

- 8.8.5** xvi. The World Intellectual Property Organisation Copyright Treaty, 1996.
- xvii. The World Intellectual Property Performances and Phonograms Treaty, 1996.

**8.8.6** In preparing and applying legislation in the courts, note will need to be taken of provisions contained in the Rio Convention on Biodiversity, 1992 as this affects biotechnology rights and the Uniformed Domain Name Dispute Resolution Policy, 1999 as adopted by the Internet Corporation for assigned names and numbers ("ICANN").

## **8.9 The Extension of the International Treaties and The World Intellectual Property Organisation**

**8.9.1** The above list of international conventions and treaties represents significant and complex areas of international trade agreements. Fortunately, meeting the TRIPS standards will ensure compliance with most of the requirements of the treaties and conventions for the Bailiwick. The United Kingdom through the Lord Chancellor's Department, on advice from the Patent Office has indicated that it would welcome TRIPS compliance and support the extension of the conventions, treaties and agreements to the Bailiwick.

- 8.9.2** Advice and assistance is also available through the World Intellectual Property Organisation which is a specialised agency under the United Nations. The World Intellectual Property Organisation exists to promote international co-operation in intellectual property and provides advice and support for individual jurisdictions such as the Bailiwick, seeking to develop intellectual property laws in line with international conventions, treaties and agreements.

## **8.10 Social, Ethical and Community Aspects**

- 8.10.1** One of the benefits claimed for intellectual property is that it protects the rights of individual inventors and artists and therefore stimulates invention and creativity. The creative and artistic abilities within the Bailiwick will have strengthened rights covering their works and this will support the development of local talent and artistic expression in these fields.
- 8.10.2** Specialist legal advice has been sought concerning compliance of the Bailiwick's proposed intellectual property law with human rights, as expressed in the European Convention on Human Rights, to which the Bailiwick is now a signatory. The advice received is that the intellectual property laws in the UK have not been fundamentally altered by the Human Rights Act, 1998 and the Bailiwick laws will be drafted in a way which complies with and meets the Convention standards on human rights.
- 8.10.3** Throughout the world, it is recognised that intellectual property protection should not unduly inhibit the activities of educational establishments such as schools and universities and public libraries. For example it is not generally regarded as reasonable for the author of a book to expect a fee every time that book is lent out to a member of the public from a library. For this reason it is proposed to build into the legislation the sensible exceptions that are in place elsewhere.
- 8.10.4** This further extends to the needs of the partially sighted, who in the Board's opinion, should be free to copy and enlarge text without finding themselves infringing copyright. Again in keeping with legislation elsewhere there will be a special exclusion within the copyright law allowing copying of material for personal use by the partially sighted. Should any further special needs come to light during the drafting of the legislation then appropriate special provisions will be considered.
- 8.10.5** Consumer protection will be enhanced through the strengthening of intellectual property laws as they relate to counterfeiting and causing confusion in the market.
- 8.10.6** Employer and employee rights with respect to intellectual property will be clarified. The employer's fundamental right to the ownership of the intellectual property of an employee in his course of employment, will be clearly set out in the law. Furthermore, appropriate opportunities for employers to recognise and reward employees, subject to the circumstances of the case, will be addressed.

## **9. ADMINISTRATION OF JUSTICE AND ENFORCEMENT**

- 9.1** The TRIPS Agreement requires appropriate regulation and enforcement of intellectual property rights. In keeping with other jurisdictions it will be a matter for aggrieved individuals and companies to take action through court procedures to enforce their rights. Given the range and nature of an intellectual property it will be unrealistic and costly to establish some form of regulatory body which would seek out and enforce infringements of the law.
- 9.2** One option for addressing this new area of justice would be to create a completely new intellectual property court supported by its own specialist full or part-time judge

experienced in intellectual property matters. This might be similar to the Patents High Court and the Patents County Court in the UK.

- 9.3 However, the Steering Group believes that this is a costly and unnecessary development. It is proposed that jurisdiction should rest, as at present, with the Royal Court which, if necessary, has the power to appoint a specialist intellectual property lawyer as Lieutenant-Bailiff.
- 9.4 Under these arrangements, appeals against registration decisions taken by the Intellectual Property Office in Guernsey would be heard by the Royal Court. It is also proposed that judicial authority for intellectual property infringements should be transferred from both the Court of Alderney and the Court of the Seneschal in Sark to the Royal Court. This will enable an appropriate body of expertise to be developed within the Bailiwick to deal with intellectual property law.
- 9.5 The Royal Court will have jurisdiction over all intellectual property disputes relating to the validity of rights and to infringement. Furthermore, it will hear appeals against a decision of the registrar of intellectual property. Any appeal against a decision of the Royal Court would lie with the Guernsey Court of Appeal and (subject to the existing rules as to appeals), to the Judicial Committee of the Privy Council.
- 9.6 In some administrations tribunals are set up to deal with matters such as copyright and the Steering Group explored whether this might be a solution for Guernsey. It was clear, however, that no one tribunal could be created to cover all areas of intellectual property, as the law covers so many different fields. Indeed experience in England has shown that tribunals consisting of a legally qualified chairman and two lay members have not proved to be the best solution in dealing with royalty cases for example. Both appellants and defendants in such cases, quickly resort to legal advice and representation making the management and administration of tribunals complex, legalistic and expensive.
- 9.7 It is generally considered that Hong Kong has adopted a better system whereby, for example, copyright tribunals are presided over by a professional judge. However this example suggests that there should be no distinction between a copyright tribunal or a court of law. All matters which in England, fall within the jurisdiction of intellectual property tribunals should therefore, in Guernsey, be heard by the Royal Court.
- 9.8 The European Union is currently attempting to develop a common judicial system for intellectual property and any legislation which is drawn up should anticipate the European Community Patent and the European Community Patent Court and work within the framework of the European Courts of Justice.
- 9.9 Whilst the responsibility to police intellectual property rights is generally down to the holder of those rights, there are particular responsibilities falling to the Police and Customs to protect Island traders and consumers with regard to counterfeit goods which may be illegal or dangerous. Appropriate provision is therefore made within the intellectual property laws for the policing, seizure and enforcement of such goods or services. These will be similar or equivalent to the provisions provided under UK law for their Police and Customs authorities.

## **10 THE REQUIREMENT FOR A BAILIWICK INTELLECTUAL PROPERTY OFFICE**

- 10.1 **The successful implementation and administration of the raft of legislation proposed in this report and the steps necessary to unleash the economic opportunities to exploit the proposed intellectual property environment; will not be realised without an intellectual property registration service and the development of intellectual property opportunities with business and commerce.**

- 10.2** This provision of this service will require some specialist resources. The need for additional staff and finance has been minimised by the way the Board propose to structure the service provision.

**10.3 The present system at the Royal Court and Greffe**

- 10.3.1** The Royal Court currently operates, by means of non-contentious business, a very limited paper-based system of registration, where rights must be first registered at the UK Patent Office. Such a system is narrow in scope and is not focused on business needs. It currently has a low staff requirement because the volume of registrations is low (apart from re-registration of trade marks), the work is non-contentious and the present law is restrictive on the type of rights that can be registered.

- 10.3.2** By implementing the proposed intellectual property legislation, the complexity of the rights will become greater than the 1911/1922 laws and the re- registration processes will change. It is further anticipated that these changes will increase the demand for registrations and that business demands will become more urgent. The likely consequence for the present paper-based filing at the Greffe system is that it would not cope. An increase in quantity complexity or contention within the present system would require a significant increase in staff, it would also become increasingly expensive to operate with higher staff costs and procedures requiring an advocate's time. On matters of contention, potential conflicts of interest could arise between executive and judicial functions.

- 10.3.3** **The Steering Group's conclusion is that the present system, the administration of which falls to the Greffe, simply does not have the resources, procedures and systems necessary to support and develop a modern intellectual property law as described in this report.**

**10.4 Developing an intellectual property service meeting business and commercial requirements**

- 10.4.1** The proposed developments in legislation and exploitation of economic opportunities requires a registration service which is beyond the present system. The principle that the service should be focused on the commercial needs of businesses rather than on administrative processes has been emphasised by many Bailiwick businesses and is strongly supported in the Board. Whilst the service needs to be established under government powers, it must work closely with industry and commerce across the Bailiwick's economic sectors. Under TRIPS it must also provide the same registration rights and a similar level of service to both local and international clients.

- 10.4.2** Having considered the needs of the Bailiwick, and recommendations of the Steering Group the Board therefore sees the need for a service which:

- will operate as a statutory body;
- will have a dedicated, but small, team of staff to service the registration process and to develop the Bailiwick intellectual property interests;
- will be electronically based for speed of operation
- will be internationally accessible over the Internet;
- will be answerable to the States through a Directorate operating a commercially focused service for the benefit of the Bailiwick;
- will receive registration powers through the Board of Industry and be subject to "political" and policy guidance from the Board;

- will form a close working relationship with the UK Patent Office, other supra-national patent offices, the World Intellectual Property Organisation;
- will have an understanding of the application of the International Conventions, Treaties and Agreements as they apply to the Bailiwick;
- will seek to foster Bailiwick based intellectual property business in the private sector.

**10.5 The market presence and customer services of a Bailiwick intellectual property office**

**10.5.1** Together these requirements constitute the need for an integrated service which can be marketed as the “Bailiwick Intellectual Property Office”. Such an “office” would provide a presence for the Bailiwick in the international market for intellectual property and will provide a range of services.

**10.5.2** It is proposed that these services will include the following:

- a first registration for trademarks and registered designs;
- a registration system for patents, integrated circuit rights, semi-conductor and biotechnology rights, where these rights or patents have first been registered through a recognised national or super-national intellectual property office;
- information in relation to domain name registrations, copyright, software rights, database rights, unregistered design rights and trade secrets;
- a registration of plant variety rights through a first registration at the UK Plant Variety Rights and Seeds Office;
- the development of Bailiwick intellectual property opportunities through a strategic marketing/business plan in partnership with commerce and business.

**10.5.3** Under these proposals the legal requirement to act through an advocate in registrations would be removed and a fast, efficient and cost effective service provided.

**10.6 Resource implications for developing and operating a Bailiwick Intellectual Property Office**

**10.6.1** Any credible intellectual property service that can operate in both a local and an international environment is going to require some specialist resources. Mindful of the constraints on staff in the Island’s labour market and the need to avoid any service which would be a drain on States finances, the Board has minimised the resource requirements by:

- (i) proposing the outsourcing of the specialist and costly process of plant variety testing to the Plant varieties and Seeds office in the UK;
- (ii) limiting first registration services to rights where the validation requirements are straight forward and do not require specialist expertise;
- (iii) providing a Bailiwick registration for the more complex rights only where there has been a prior registration at a recognised national patent office;

- (iv) proposing a small focused team of just 2-3 persons in the initial development phase. This could include a director responsible for the service launch and a registrar/administrative officer;
- (v) proposing that the service has the objective of being self-funding within 3 years. Initial operating costs are estimated to be within £250,000 per annum. Income is expected to climb from around £50,000 in year 1 to exceed costs within 3 years. In addition there will be the need for expenditure on particular items in the start-up phase, for example software programmes to automate the registration processes and to provide an internet presence. Estimates of these “start-up costs” are between £200,000-£250,000.

**10.6.2 However whilst the objective for the Bailiwick intellectual property office is to be commercial in operation and cover its costs, it must be emphasised that the real economic benefits are to be derived from the key part that intellectual property, including the proposed office services, will play within the Bailiwick economy. The registration services provided by such an office will also enhance the opportunity to attract specialist intellectual property businesses to an offshore location such as the Bailiwick.**

**10.7 The need for a phased development and a full report to the States on a business plan for the proposed services**

**10.7.1** The proposed intellectual policy office will need to go through a development stage during which the business plan and the associated costs will be finalised. Whilst the Board recognises the advantages of creating an Intellectual Property Office, it is also conscious from its involvement with the Training Agency, the Guernsey Promotional Agency and the Office of Utility Regulation, that it can be difficult to provide precise revenues and costs at the initial policy stage. Accordingly, the Board proposes to return to the States with a business plan, before proceeding with a Bailiwick Intellectual Property Office. This however need not hold up preparation of the “umbrella” enabling legislation.

**10.7.2 The Board recognises that developing the right vehicle for administering and developing intellectual property rights is a key to the success of these proposals. Accordingly it would ask the States to agree in principle, to the creation of a such a service, but to also direct the Board in working with the Intellectual Property Steering Group and other authorities, to present a report, including a business plan, for implementing such a service before the introduction of the new legislation.**

**11 INTELLECTUAL PROPERTY LEGISLATION PROCESS AND TRIPS COMPLIANCE.**

**11.1** Assuming States approval of these proposals the following process will follow:-

- Primary legislation brought before the States of Guernsey and subsequently to Chief Pleas in Sark / States of Alderney.
- Submission to the Privy Council for Royal Assent for the primary “enabling” legislation.
- Secondary legislation prepared in the form of ordinances and submitted to the States of Guernsey and subsequently to Chief Pleas in Sark / States of Alderney.
- Submission for recognition of TRIPS compliance through the United Kingdom.
- Establishment of a Bailiwick Intellectual Property Office.

- 11.2** Whilst the Board acknowledges the importance of the development of Intellectual Property legislation, it is not possible to provide a precise timetable as the timings will be dependent upon the judicial and constitutional procedures involved in the passing of the legislation.

## **12 DEVELOPING FUTURE BUSINESS OPPORTUNITIES**

- 12.1** Creating the right legal and administrative framework for intellectual property within the Bailiwick is not an end in itself but the first step towards developing new economic opportunities. The Board of Industry will continue to pursue and develop these opportunities in line with States policies to develop a balanced economy and seek new high earning economic activities. Within this framework the work will include:
- Developing a strategic business plan for intellectual property and promoting activities for the establishment of intellectual property based enterprises;
  - Developing the synergy between e-business and intellectual property business opportunities;
  - Addressing the training and education needs of intellectual property with the Education Council, the Training Agency and commercial organisations in the Bailiwick;
  - Carrying out research into the future business streams for intellectual property;
  - Working with the legal profession to stimulate and develop the skills and expertise which will be required if the Bailiwick is to develop a significant presence in the international field of intellectual property.

## **13 SUMMARY**

- 13.1** Intellectual property is an integral part of a 21<sup>st</sup> Century economy. It is a key requirement in the economic development of the Bailiwick's existing commercial activity and in stimulating a knowledge economy where the value placed on knowledge, skills, ideas, inventions and creative ability fosters economic and artistic development.
- 13.2** The Bailiwick's current laws on intellectual property date from 1911 (copyright) and 1922 (patents, unregistered designs and trademarks) and do not meet the needs of the 21<sup>st</sup> Century. New legislation is required which reflects developments elsewhere, fits within an international setting and serves present and future economic needs.
- 13.3** Guernsey, Alderney and Sark need to develop their intellectual property legislation together as the needs and opportunities apply equally to each island.
- 13.4** Compliance with the Trade Related Aspects Of Intellectual Property Rights (TRIPS) is an essential part of the Bailiwick's intellectual property strategy.
- 13.5** A modern system of intellectual property is essential for the existing businesses and enterprises in the Bailiwick. Failure to update the legislation will be costly and is likely to hold back development opportunities for those businesses.
- 13.6** A modern intellectual property regime will create new economic opportunities through the appropriate provision of intellectual property rights and related registration systems.
- 13.7** Legislation for intellectual property will take the form of primary legislation providing broad enabling powers and secondary legislation allowing for the drafting of specific rights through ordinances.



- 13.8** The areas of intellectual property law required are broad embracing copyright, patents, designs, trademarks and rights related to the Information Society.
- 13.9** Bailiwick intellectual property legislation will be based upon UK legislation and European Directives but with the opportunity to make modifications where there are particular points of law beneficial to the Bailiwick from other jurisdictions.
- 13.10** Registration requirements will consist of international recognition for appropriate rights, first registration and re-registration systems as appropriate to the various areas of intellectual property.
- 13.11** Particular consideration will be given to e-business requirements and the need for rights associated with the Internet and the Information Society.
- 13.12** Plant variety rights will be based on the UK Plant Variety Rights Act 1997. The testing and validation services will be sourced through the UK Plant Variety and Seeds Office. Special transition arrangements for the introduction of plant variety rights will be negotiated to minimise the impact on some flower growers.
- 13.13** The extension of international conventions, treaties and agreements to the Bailiwick is essential for the development of an internationally recognised intellectual property environment. These will be extended, as appropriate, as the Bailiwick meets the various convention requirements with the support of the Policy Directorate at the Patent Office and the World Intellectual Property Organisation.
- 13.14** The human rights and social aspects of intellectual property will be considered and provided for in the development and implementation of the legislation.
- 13.15** The administration of justice and enforcement requirements will be dealt with by the Royal Court.
- 13.16** A Bailiwick Intellectual Property Office is required for the registration of intellectual property rights and the development of an international strategy in intellectual property. The Board will present a business plan on the proposed office to the States before such an office is established.
- 13.17** The Board of Industry is proactively working to seize and develop the opportunities presented by intellectual property and the knowledge economy. This includes work across a range of economic areas from e-business, horticulture, light industry and the arts.

## **14     RECOMMENDATIONS**

The Board of Industry recommends the States to:

- 1. Approve the introduction of a modern regime of intellectual property legislation along the lines described in this letter.
- 2. Agree to compliance with the standards required by the Trade Related aspects of Intellectual Property Rights (TRIPS) under the World Trade Organisation Agreement.
- 3. Note the intention to extend the various international conventions, treaties and agreements as set out in this policy letter relating to intellectual property, subject to the normal scrutiny procedures for such agreements applied by the Advisory and Finance Committee.
- 4. Agree in principle that a Bailiwick Intellectual Property Office should be created under the auspices of the Board of Industry.



5. Direct the Board of Industry to submit to the States plans for the creation of a Bailiwick Intellectual Property Office including a business plan, prior to the introduction of the proposed Intellectual Property legislation.

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

Yours faithfully

JOHN ROPER

President  
States Board of Industry

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The President  
States of Guernsey  
Royal Court House  
St Peter Port  
Guernsey  
GY1 2PB

31 October 2002

Dear Sir

I refer to the letter dated 21 October addressed to you by the President of the Board of Industry on the subject of Intellectual Property Legislation.

The Advisory and Finance Committee strongly supports the need to bring the Bailiwick's intellectual property legislation up to date. This will enable the Bailiwick to demonstrate that it complies with common international standards by signing up to various international agreements and will enhance our reputation as a jurisdiction with a modern legislative infrastructure in which to do business.

The Committee also supports the approach whereby primary legislation will be enacted to enable the detailed arrangements for specific areas of intellectual property to be covered by Ordinances. This will give the Bailiwick the flexibility to react quickly to changing circumstances and is the approach the Committee would like to see adopted in all areas of legislation whenever possible.

The policy letter suggests that, in addition to complying with common international standards, the updating of legislation provides the opportunity to differentiate the Bailiwick from other jurisdictions on some aspects of intellectual property. This could bring economic benefit to the Bailiwick. On the other hand it would place a greater burden of work in specialist areas, and hence higher costs, on any Intellectual Property Office that may be created to handle registrations.

The policy letter requests agreement in principle to the creation of an Intellectual Property Office with the proviso that the Board of Industry will return to the States with a Business Plan and

detailed proposals. The Committee, and no doubt the States, will need to be convinced that the costs of creating any additional statutory body, such as an Intellectual Property Office are fully justified and, as is suggested in the policy letter, are self funding from fees.

The Advisory and Finance Committee recommends the States to approve the proposals.

Yours faithfully

L C MORGAN

President  
Advisory and Finance Committee

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The States are asked to decide:-

XIX.—Whether, after consideration of the Report dated the 21<sup>st</sup> October, 2002, of the States Board of Industry, they are of opinion:-

1. To approve the introduction of a modern regime of intellectual property legislation along the lines described in that Report.
2. To agree to compliance with the standards required by the Trade Related aspects of Intellectual Property Rights (TRIPS) under the World Trade Organisation Agreement.
3. To note the intention to extend the various international conventions, treaties and agreements as set out in that Report relating to intellectual property, subject to the normal scrutiny procedures for such agreements applied by the States Advisory and Finance Committee.
4. To agree in principle that a Bailiwick Intellectual Property Office shall be created under the auspices of the States Board of Industry.
5. To direct the States Board of Industry to submit to the States plans for the creation of a Bailiwick Intellectual Property Office including a business plan, prior to the introduction of the proposed Intellectual Property legislation.
6. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

**STATES CHILDREN BOARD AND STATES HOUSING AUTHORITY**

**HOUSING PROJECTS FOR YOUNG PEOPLE**

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

25 October 2002

Dear Sir

**Housing Projects for Young People**

**1. Introduction**

- 1.1 The Children Board and the Housing Authority jointly bring forward the proposals contained within this policy letter, which arise from concerns expressed by Children Board, Youth Concern (a registered charity), and other agencies involved with young people, at the gaps in the housing provision for young people, and the difficulties faced by some young people in moving into independent living. Of the young people needing assistance the majority are not known to Children Board or other statutory agencies.
- 1.2 The proposals are aimed at addressing the needs of vulnerable young people aged primarily 16 – 21 years who are without family support, and are at risk of homelessness, unemployment, and social exclusion. The measures set out below in this report aim to provide young people with the practical skills needed to support themselves in the community, support in achieving a successful transition to adulthood, and assistance with temporary accommodation in an emergency. A failure to address these problems has both financial and social costs in the short and long term.
- 1.3 Following discussions between Youth Concern, the Children Board and the Housing Authority, a report was presented to the Social Policy Working Group, the inter-departmental group of chief and senior officers responsible for the formulation of recommendations on co-ordinated and integrated social policy that crosses committee boundaries. Having received that report, which forms the basis of this policy letter, the Social Policy Working Group agreed that it was appropriate that the Children Board and the Housing Authority present proposals to the States aimed at meeting the presently unmet accommodation and social needs of vulnerable young people, predominantly but not exclusively aged 16–21. In order to progress the project, given the number of agencies involved, a Project Board was established in May 2002, with representatives from those Committees with a particular interest in the difficulties faced by the young people concerned.

The main proposals are as follows:

- The establishment of a service that will provide young people with the practical support and skills they need in order to live independently, assistance with finding accommodation and employment, counselling and support, and accommodation in an

emergency. The service will be provided by a team of staff based in a “drop-in” centre in the community.

- The resources provided by the team include the provision of 7 training bedsits at 17 Havilland Street where young people will undertake a training package for independent living for 3 – 6 months
- A further resource to be established and supported by the team is the provision of temporary supported accommodation in an emergency for young people who are homeless by establishing a partnership between the project and private sector landlords.

- 1.4 The entire service is to be provided by a public/private partnership between the Children Board, the Housing Authority and NCH, a charitable organisation, the latter of whom will operate and manage all services.

## **2. Background**

- 2.1 In 1999, increased concerns were being expressed about the housing problems of young people and their particular vulnerability, by various agencies, including the Parish Procureurs, the Children Board, and in particular Youth Concern, who had already identified a need for a service for this group of young people. A UK Charity, NCH (formerly National Children’s Home Action for Children), that works extensively in the UK, often in partnership with Local Authorities, was expressing an interest in becoming involved in a project in Guernsey. Agreement was reached to set up a pilot housing project aimed at identifying and meeting the needs of vulnerable young people.
- 2.2 The Peacehaven Trust which owns a property at no 3 Havilland Street, had temporarily leased the property to the Board of Administration for use by Children Board as a temporary residential unit whilst extensive refurbishment was undertaken on Children Board buildings. The property became available again in December 1999, and agreement was reached with the Peacehaven Trust for the property to be used to establish a pilot housing project for young people.

## **3. The Pilot Project**

- 3.1 The Pilot Project was established at 3 Havilland Street in March 2000 based on an agreement between the Children Board, Youth Concern, the Peacehaven Trust and NCH, and aimed to establish the needs of homeless young people in Guernsey.
- 3.2 The project team of 2 staff was established, a Manager for the project was provided and funded by the Children Board, and a Project worker was provided and funded by Youth Concern. Children Board temporarily transferred its supported lodgings scheme and supported accommodation with 2 staff members to the project. The project was managed by the Children Board.
- 3.3 The “drop-in” at 3 Havilland Street provided an information service for young people, and provided assistance in finding accommodation and employment. Intensive support was offered to a number of vulnerable young people who were living alone in the community for the first time. Cooking and washing facilities were also provided.
- 3.4 The staff also sought to collate information from agencies about the demand for services from young people, and investigated the provision of services both in Jersey and England.

#### **4. Results of the Pilot Project**

- 4.1 Over the six months of the pilot project, the service was used by a total of 21 young people who sought out the services of the pilot project of their own accord. This is significant, as young people can be reluctant to refer themselves to services, and the trust of the young people is crucial if a service is to be successful. The Parish Procureurs estimated that in any one week, 5 young people were seeking accommodation. Most of these young people were sleeping on the floors of friend's houses, and were often moving around. There is the risk of a young person being approached by an unsuitable adult, as they are vulnerable to abuse and drug dependency.
- 4.2 It is important to note, that the Children Board will support young people in its care up to 18 years of age and through to independence if the young person accepts the support and help that can be offered. There are some young people, however, who see the Children Board as being an authority that is preventing them from achieving independence, and they cease to co-operate with Children Board staff, or to follow any plans that are made for them. In these circumstances, they need to seek help from a project that is independent of the Children Board and other States departments.
- 4.3 The project identified the following services were required:
- The priority was for a focal point from which to provide support to young people. This core service should provide assistance with accommodation, employment, counselling, and help with the practical skills needed to live independently in the community. The service needs to provide on-going support to young people living in the community if they are to sustain the positive steps taken in gaining employment and accommodation.
  - A need for 6 – 8 training bedsits where young people can undergo a training programme to enable them to move into independent living
  - Emergency accommodation for young people in crisis who have nowhere to sleep that night
- 4.4 Following the results of the pilot project agreement was reached between the Children Board, NCH and Youth Concern to proceed with plans to secure the necessary resources to establish a permanent project in Guernsey.

#### **5. The Current Guernsey Youth Housing Project**

- 5.1 The project has continued to run from 3 Havilland Street. At the end of 2001, the 2 support staff and Children Board services returned to the Children Board premises, and the management of the Guernsey Youth Housing Project (GYHP) was transferred to NCH in 2001. The GYHP currently offers a number of services.
- 5.2 The GYHP seeks to promote the family where possible, and will offer mediation where appropriate to assist young people and their families to seek to resolve difficulties that otherwise would necessitate the young person leaving home prematurely. In cases where a young person does not return home, the GYHP will attempt to foster the support of the family as much as possible to facilitate the process.
- 5.3 It also provides a "drop-in" facility where trained staff can provide advice, support and counselling to young people in a number of areas, and in practical terms, where young people can access laundry, kitchen and bathing facilities. It also provides access to telephones and computers for enquiring about jobs and accommodation, and provides

assistance in preparing documentation required for applications. Where an initial assessment indicates the need, young people can also take part in an independence programme to encourage them to develop the independent living skills they require. There are core subjects such as budgeting, cookery, and basic DIY, but the programme is tailored to individual needs.

- 5.4 The project has provided more intensive support to particularly vulnerable young people, such as those released from custody.
- 5.5 The GYHP is forging links with private sector landlords and with employers, who are able to offer support to young people.
- 5.6 The staffing and support of the service is currently provided by a Project Manager, and a Project Worker. Funding has been by way of a grant for the Project Worker from Youth Concern which ceased in March 2002. A temporary £45,000 increase in the Children Board's revenue budget has covered the cost of the Manager and the Project worker for the remainder of the year. This funding ceases at the end of 2002. NCH has contributed a grant of £30,000 to cover the additional revenue costs as a preliminary to a longer term commitment. NCH is prepared to commit a further £180,000 to the project over a 3 year period, making their contribution a total of £210,000. NCH is also managing the project.

## 6. Current Statistics of Service Users

- 6.1 **The current drop-in and support service has been in great demand, with a total of 2,767 contacts during a 17 month period.** During this period, there was a total of 210 referrals to the Project, involving 167 individuals, the largest proportion was with young people aged 16 – 18 years. (The statistics are appended to this report.)
- 6.2 Although referrals are received from a number of professional agencies, **the greatest source of referral is clearly “self referral”, amounting to 1098 contacts during the recorded period.** These figures will inevitably increase as the profile of the project develops.

## 7. Proposals for the development of the Guernsey Youth Housing Project

- 7.1 The proposals, which are three-fold and interdependent, are intended to provide a continuum of provision for young people. The level of need demonstrated by the current project has indicated that the development of the entire project with a full-staff team able to provide all the necessary services is an urgent requirement. The services to be developed are:
- 7.2 The provision of a full team of staff, comprising the following:

- Manager
- Deputy Manager
- 3 full time and 1 part-time project workers
- 1 full time administrative assistant
- Sessional workers as required.

### 7.3 (a) **Drop in Service**

- 7.3.1 This staff team based in a “drop-in” centre will enable the project to provide a service evenings and weekends, and offer the emergency support that young people in crisis need, with night waking staff when necessary. The staff will also undertake the training and support of young people living in the training bedsit accommodation, and provide counselling, mediation and intensive support to very vulnerable young people. The full staffing complement will also allow for on-going support to young people as they move into

independent living in the community. This service will need to be relocated from its present base at No.3 Havilland Street. The property was unsuitable for further use without major structural work and the property has now been sold by the Peacehaven Trust. Provision is made in the revenue costs set out below, to cover the rental of alternative premises if a suitable States property is not available.

#### **7.4 (b) Training Bed-sits**

- 7.4.1 The development of an existing States-owned property, No 17 Havilland Street, to provide 7 bed-sits (including a facility for a young person with special needs) for use as a training resource for young people, to enable them to acquire the skills necessary to move into independent living. The young people will work to a programme with staff from the Project, over a period of 3 – 6 months, before moving on to live independently in private sector accommodation or, subject to further discussion and agreement, housing provided by either the Housing Authority and/or the Guernsey Housing Association. Many young people do not have the skills necessary to live independently, and need support in many areas, including managing their budget, obtaining employment, and managing the daily tasks, such as doing their laundry and cooking. The occupants of the bed-sits will be supported by staff from the Project, and will learn the skills necessary for them to move on and into accommodation in the community. They will continue to receive the support of staff whilst fully adjusting to independent living.

#### **7.5 (c) Emergency Accommodation**

- 7.5.1 The Project Team will set up a support scheme involving private landlords and householders, to initially provide 4 units of supported accommodation to supply temporary emergency accommodation.
- 7.5.2 It was originally envisaged that this need may be met by the development of a hostel. Experience over the last 3 years has shown that these vulnerable young people can be better assisted by provision of more flexible resources within the community.
- 7.5.3 The proposal is to provide initially for 4 supported placements within the community, using private resources. There are presently a number of private landlords, who have assisted in providing basic accommodation to the Guernsey Youth Housing Project. Other landlords will be approached to see whether they can offer accommodation for use by the Project. The Authority has also considered whether there are any “incompatible States houses” that could be used to provide bed-sits for this purpose. At present there are no suitable properties available, but the Authority has agreed to keep the matter under review.
- 7.5.4 Such a range of options provides for the needs of young people, with differing problems, to be accommodated. Young people assessed to need accommodation with the support of the Project Team will be temporarily accommodated pending establishing them in a settled placement, also with the support of the Project team.
- 7.5.5 The statistics provided by the current Project indicate that there has not been a significant demand for this type of resource; however, there is some concern that the full extent of the problem is not currently being seen. Flexible provision as described above, can be reviewed, and the number and type of units required adjusted to meet the demand.
- 7.5.6 Some of the costs would be off-set by a contribution from the young people. It is envisaged that young people in work would be expected to pay for the accommodation provided. Those not in employment would contribute towards the costs of the accommodation from their welfare benefits. This is explained further below.



- 7.5.7 In comparison, the establishment of a hostel to provide for this need, would be costly, both in terms of financial and human resources, and would be likely to pose problems in its operation. The revenue costs, to include a staff team, to run a hostel would run to £500,000 per annum based on similar provision in England; but this does not take account of the capital costs involved in converting or building a suitable property.
- 7.5.8 **A hostel does not provide for differing needs of young people, and experience elsewhere shows that problems can arise when young people with problem behaviours are placed together. There is little incentive to move on, with young people more likely to become accustomed to institutional living, rather than experiencing the reality of independent living in the community.**
- 7.5.9 Developments in England have moved away from this model of accommodation, and developments such as housing “Foyers” now aim at providing affordable accommodation with access to education, training and support for disadvantaged young people. This approach seeks to support young peoples’ transition to independence by improving their employability and ability to secure and retain their own accommodation.

## **8.0 The Management of the Project**

- 8.1 Under the proposed arrangements, the NCH will manage and administer the Youth Housing Project under a formal partnership arrangement with the Children Board and the Housing Authority. This proposal reflects the fact that as a small Island charity, Youth Concern recognises that it does not have the professional expertise to run a project of this size and complexity. It is, therefore, pleased that NCH, an organisation with considerable experience in this field, is willing to be involved with the Guernsey project.
- 8.2 The Children Board will be responsible for monitoring the delivery of the Project’s professional services.
- 8.3 The Housing Authority will be responsible for providing financial assistance to the Project to meet its running costs; in addition, the Authority will assume overall responsibility for the upkeep of all the Project’s buildings that are in States’ ownership, although day-to-day property maintenance will be the responsibility of the NCH and will form part of the grant funding arrangements set out below. Private sector landlords involved in the Project will be expected to maintain their own properties from the rental income received.
- 8.4 Although withdrawing from its direct management, Youth Concern will maintain an active interest in the Project and will be represented both on the Steering Group that will bring the Project fully into being and subsequently on the Project Committee that will oversee its day-to-day operations.

## **9.0 Revenue Requirements**

- 9.1 **The revenue costs of implementing the overall strategy in a way that can meet the demand shown by the pilot project is £320,000 per annum based on States premises being used as the base for the project to replace No 3 Havilland Street, or £360,000 per annum based on rented accommodation.** This budget is based on similar projects run by NCH in the United Kingdom, and allows for the staffing complement outlined as above. There will be some income from accommodation from rent payments from young people who are in employment.
- 9.2 NCH has already contributed £30,000 during the period that the Project has been running. **NCH has agreed to make a total contribution of £210,000 and will, therefore, provide**



**further contributions of £60,000 per annum for the next three years (2003-2005). The net revenue requirement from the States for the first three years will therefore be £260,000 to £300,000 per annum.** NCH has indicated that it is willing to continue the management of the Project after their funding ceases, which is important, as their independence from States' bodies is vital for the ongoing success of the project with young people. NCH will not charge any additional management fee for their services.

## **10.0 Capital Requirements**

### **No. 17 Havilland Street – Training Bed Sit Accommodation**

- 10.1 The Board of Administration originally offered Youth Concern the property known as 17, Havilland Street, for use as training bed-sits, at a peppercorn rent, for a length of time to be agreed. It was evident that the property would require considerable renovation and refurbishment to convert it to bed-sit accommodation. In view of this, enquiries were made about the availability of other States' properties that might meet the requirements of the Project; however, no other suitable properties were found. The decision to proceed with the development of No 17 Havilland Street, is based on: its ideal position in St Peter Port; the property is already in States' ownership and available for immediate redevelopment; and a feasibility study indicated that the building could be converted to provide the accommodation required, with no major structural problems.
- 10.2 Hunt Brewin were engaged as architects and project managers, and conducted the initial survey and feasibility study. On the basis of their report, the Project Board agreed to proceed with the plans for the development of this property, and this decision was subsequently endorsed by the Estates Sub-Committee.
- 10.3 The plans are to renovate and refurbish the property to provide 7 units of accommodation as training bed-sits and communal laundry facilities. The unit on the ground floor is designed so that it accommodates a young person with special needs.
- 10.4 **The capital cost for the renovation and redevelopment (including fees for professional services) is estimated not to exceed £455,000. To enable the Project to proceed without further delay, it is recommended that the Advisory and Finance Committee be authorised to approve expenditure from the Housing Authority's capital allocation for the renovation and redevelopment works following receipt of tenders.**
- 10.5 Once converted, the Authority will make provision in a revenue grant payable to NCH for ongoing routine maintenance of the building.
- 10.6 Finally, it is recommended that the States funding outlined above be by means of a revenue grant paid via the Housing Authority because:
  - this is primarily a housing project;
  - under proposals already agreed by the States, the Authority will be paying grants to other housing providers, e.g. housing associations;
  - given that the young people targeted by these proposals wish to disassociate themselves from the Children Board, it would be inappropriate for the Board to pay the grant.
- 10.7 The proposals outlined above will provide for the necessary continuum of accommodation, support and advice necessary to enable young people to move into independent living; they are interdependent if an adequate service is to be provided for this vulnerable group of young people.

## **11.0 Post-Project accommodation**

- 11.1 The needs of the young people using the current Housing Project are complex. The service has to provide both for their housing and social needs if it is to assist them in living independently in the community. The provision of accommodation alone will not be successful in enabling them to integrate into the community. Experience in the United Kingdom identifies the importance of schemes that meet social as well as accommodation needs.
- 11.2 Evidence from elsewhere also emphasises the necessity for a continuum of provision. Some young people are not at a stage where they are ready to accept support in obtaining employment and learning the skills necessary to live independently. Supported temporary accommodation would meet the accommodation needs of this group of young people and, therefore, must be seen as an essential ingredient in an overall strategy to meet the accommodation and social needs of such young people. As they wish to receive more assistance, the Havilland Street project with the training bed-sits provides the next step towards independent living. Outreach support from the Project then provides ongoing assistance as they move into independent living.
- 11.3 However, all the good work done in the above environments can be quickly undone if there is no suitable affordable accommodation available for young people to occupy once they leave the Project. Consequently, in the UK, projects such as those described in this policy letter usually include a commitment from the Local Authority or a housing association to accommodate young people who have been through this training process and who are capable of moving on to independent living. In this way, young people will pay rents that they can afford, which encourages them to obtain and remain in employment and to contribute positively to society.
- 11.4 In Guernsey at the present time, such young people would be ineligible to be housed by the States; however, in view of the importance of providing this “move-on” accommodation, the Authority, in conjunction with the new Guernsey Housing Association, will investigate implementing similar arrangements by which young people who have been accommodated by the Project may be housed by the Authority and/or by the Association.

## **12.0 Rents and rent rebates**

- 12.1 Reference was made above to there being some rental income from the training bed-sit accommodation and temporary supported accommodation from those young people who are in employment.
- 12.2 Taking account of the principles set out in this policy letter, the Children Board and the Housing Authority are in agreement that the rents charged for this accommodation should be at affordable levels. The committees are also of the view that all residents should be required to pay rent, regardless of whether they are in employment.
- 12.3 Where financial assistance with rents payable for the training bed-sit accommodation is required, it is considered that this should be offered by extending the Authority’s Rent Rebate Scheme to cover any person so accommodated. Similarly, the level of rents charged should reflect the rents charged to States’ tenants for equivalent accommodation.
- 12.4 With respect to the supported accommodation in the community, because it is envisaged that such placements will be for very short periods of time, it is recommended that the young people meet these costs through their wages and/or any welfare benefits to which they are entitled. The level of rents charged will be a matter for negotiation between the NCH and the private sector landlord concerned.

### 13.0 **Consultation**

13.1 Consultation on the content of this policy letter has taken place with the following:

- **States Departments**

Guernsey Social Security Authority  
Public Assistance Authority  
Board of Health  
Committee for Home Affairs  
Probation Committee  
Board of Administration  
Education Council

- **Other agencies**

Youth Concern  
NCH  
Peacehaven Trust  
Guernsey Association of Health Visitors  
Guernsey Housing Association

### 14.0 **Conclusion**

- 14.1 The project that has been in operation for almost three years from No. 3 Havilland Street, has demonstrated that **there is an urgent need for the services set out in this Policy Letter**. The work undertaken by the project also demonstrates the variety of problems presented by young people, some of which are complex and need skilled professional help as well as accommodation if they are to be addressed. The transition from childhood into adulthood is a key time for young people. Those who do not have the support of family, for whatever reason, find the transition difficult, and are at risk of becoming socially excluded, through criminal behaviour, involvement with drugs, or by developing mental health problems brought on by isolation and by the problems they face.
- 14.2 Strategies aimed at preventing poverty and social exclusion in the longer term, need to address the problems of young people becoming disaffected, unemployed, and incapable of living as part of the community. The figures indicate that this is a significant problem, the extent of which had not been recognised until the Project was set up. Guernsey is fortunate in that young people, with the necessary support, can obtain employment, and need not face the problems that long term unemployment has brought elsewhere. The consequences of not meeting these needs, are seen in the social and economic costs of unemployment, crime, health problems and calls on general revenue services (social and judiciary).
- 14.3 The Survey of Guernsey Living Standards (the so-called "Poverty Survey") conducted by the Townsend Institute for International Poverty Research in 2000/2001, has confirmed that for a small number of disadvantaged young people, the transition to adulthood is an especially debilitating process, characterised by housing insecurity, homelessness and unemployment, resulting in persistent poverty, labour market exclusion and recurring offending and anti-social behaviour.
- 14.4 The proposals in this Policy Letter, which are the result of a public/private partnership approach between States' agencies, charitable organisations, and private sector landlords, will provide the services needed to offer this group of young people the opportunity to

become successful adult members of the community. As such, they form part of an anti-poverty strategy to provide targeted support for the most marginalized and vulnerable young people while, at the same time, addressing the housing needs of a key group in the community.

## **15.0 Recommendations**

15.1 The States is recommended to agree:

- (a) That the States Housing Authority be authorised to make an annual revenue grant to NCH to provide for the continuation and the establishment of those housing projects for young people specified in this report;
- (b) That the States Advisory and Finance Committee be authorised to increase the 2003 revenue expenditure budget of the States Housing Authority by a sum of up to £300,000, in respect of the grant payable to NCH;
- (c) That the States Advisory and Finance Committee be directed to take account of the annual grant to the NCH when recommending to the States revenue allocations for the States Housing Authority in 2004 and subsequent years;
- (d) That administration of the property known as 17 Havilland Street be transferred to the States Housing Authority for use as training bed-sit accommodation for young people as set out in this report, on such terms and conditions as may be laid down by the States Housing Authority and approved by the States Advisory and Finance Committee;
- (e) That the States Housing Authority be authorised to seek and accept, subject to the approval of the States Advisory and Finance Committee, a tender for the renovation of 17 Havilland Street for use as training bed-sit accommodation for young people, chargeable to the capital allocation of the States Housing Authority as referred to in paragraph 10.4.
- (f) That the States Rent Rebate Scheme be extended to apply to any person accommodated in the training bed-sit accommodation provided as part of the housing projects for young people, the rents for such accommodation being set at levels comparable to equivalent accommodation provided for States' tenants;
- (g) That contracts be drawn up between the States Housing Authority, Children Board and NCH to formalise the arrangements set out in this report, including service level agreements identifying the services to be provided, the standards to be met, and the outcomes be achieved.

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

Yours faithfully

J A PRITCHARD

President  
States Children Board

B. M. FLOUQUET

President  
States Housing Authority

# NCH Guernsey Youth Housing Project

## Statistics Regarding Service Users Access

From 19th April 2001 to 16th August 2002

Referrals by age group	Female	Male	Combined Total
Under 16 Years	11	15	26
16 Years	16	20	36
17 Years	23	17	40
18 Years	20	13	33
19 Years	10	7	17
20 Years	12	6	18
21 Years	8	6	14
Over 21 Years	14	12	26
<b>Total Referred</b>	<b>114</b>	<b>96</b>	<b>210</b>

Individual Service Users	Female	Male	Combined Total
	87	80	167

Classification of Need	Female	Male	Combined Total
Accommodation	411	247	658
Advice/support	512	435	947
Bath-	7	50	57
Collect allowance	10	0	10
Drop-in	178	272	450
Emergency accommodation	4	1	5
Independence Programme	16	13	29
Information	306	268	574
Initial assessment	65	48	113
Job hunting	19	106	125
Laundry	127	139	266
Mediation	15	35	50
Pay rent	0	6	6
Practical assistance	111	70	181
Telephone	8	29	37

Service Users Contact Log	Female	Male	Combined Total
Advocate	4	1	5
Bell House	3	2	5
Careers	1	0	1
Children Board	65	55	120
CPN	5	2	7
Dee caf	6	10	16
Doctor	1	0	1
Duty Social Worker (CB)	19	13	32
Education Social Worker	2	1	3
Family	76	75	151
Family Planning Clinic	1	0	1
Friend	10	3	13
Gsy Youth Housing Project	10	14	24
Health Visitor	10	0	10
Hospital Social Worker	2	13	15
Housing Authority	10	3	13
Information Exchange	0	2	2
Landlord	33	17	50
Le Carrefour (CB)	3	0	3
Maison St Pierre	23	0	23
Other	33	33	66
Other Client	7	4	11
Police	2	2	4
Probation Services	48	99	147
Samaritans	1	2	3
Sarnia Housing Association	10	1	11
Self	1015	893	1908
Social Worker (CB)	34	39	73
Supp Ben/Pub Assis	3	5	8
Women's Refuge	6	0	6
Youth Justice	19	16	35
<b>Total Contacts</b>	<b>1462</b>	<b>1305</b>	<b>2767</b>

Method of Contact	Female	Male	Combined Total
Face to Face	660	839	1499
Telephone call	441	130	571
Third party contact	361	336	697

Original Referrer	Female	Male	Combined Total
Advocate	1	0	1
Bell House	1	2	3
Children Board	9	6	15
CPN	3	1	4
Dee caf	4	6	10
Duty Social Worker (CB)	4	3	7
Education Social Worker	2	0	2
Family	11	7	18
Friend	3	1	4
Health Visitor	4	0	4
Information Exchange	0	1	1
Landlord	1	0	1
Le Carrefour (CB)	2	0	2
Maison St Pierre	2	0	2
Other	4	6	10
Other Client	1	4	5
Probation Services	5	11	16
Samaritans	1	2	3
Sarnia Housing Association	1	0	1
Self	46	40	86
Social Worker (CB)	5	3	8
Supp Ben/Pub Assis	2	0	2
Women's Refuge	2	0	2
Youth Justice	0	3	3
<b>Total Referrals</b>	<b>114</b>	<b>96</b>	<b>210</b>

2018

The President  
States of Guernsey  
Royal Court House  
St Peter Port  
Guernsey  
GY1 2PB

31 October 2002

Dear Sir

I refer to the letter dated 24 October addressed to you jointly by the President of the Children Board and the President of the Housing Authority, on the subject of Housing Projects for Young People.

The policy letter puts forward a Strategy to address the needs of vulnerable young people aged primarily 16 – 21 years who are without family support and are at risk of homelessness, unemployment and social exclusion. The Strategy encompasses the formalisation of arrangements for access to emergency accommodation, the development of a drop-in advice and support centre accessible 24 hours per day, seven days a week and specific proposals for the development of seven units of accommodation to support training in life skills.

The ongoing revenue costs of implementing the Strategy are estimated to be between £320,000 and £360,000 and the capital cost for developing training units of accommodation is £455,000.

National Childrens Homes (NCH), a UK based charity, has been involved in the pilot project to develop the Strategy drawing on its extensive knowledge and experience built up over many years involvement with similar projects in the UK. NCH has already contributed funds for the pilot project and is prepared to make a considerable contribution to the running costs of implementing the Strategy over its first three years of operation as well as undertaking the management of the various initiatives on a long term basis.

The Advisory and Finance Committee has been convinced by the case put forward by the Children Board and Housing Authority that the Strategy will not only help to reduce the level of social exclusion of vulnerable young people in the community, an extremely worthwhile objective in its own right, but it also has the potential to reduce the future burden on social and judicial services arising from this section of the community. The Strategy goes a long way to addressing one of the areas of concern identified in work on Anti-Poverty measures and will integrate into the overall Corporate Housing Strategy that is currently being developed.

The Advisory and Finance Committee is also pleased that the development and implementation of the Strategy is a public/private partnership with an experienced, specialist non-government organisation and is very grateful to NCH for its commitment and support.

The benefits of the training accommodation cannot be realised without the support services provided through the other revenue-funded elements of the Strategy. The Committee would have preferred to have seen more progress made on planning for the implementation of these other elements before the



proposals for the development of the training accommodation were brought forward, but it recognises the need to initiate the capital project as soon as possible.

The Advisory and Finance Committee therefore recommends the States to approve the proposals.

Yours faithfully

L C MORGAN

President  
Advisory and Finance Committee

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The States are asked to decide:-

XX.—Whether, after consideration of the Joint Report dated the 25<sup>th</sup> October, 2002, of the States Children Board and States Housing Authority, they are of opinion:-

1. To authorise the States Housing Authority to make an annual revenue grant to NCH to provide for the continuation and the establishment of those housing projects for young people specified in that Report.
2. To authorise the States Advisory and Finance Committee to increase the 2003 revenue expenditure budget of the States Housing Authority by a sum of up to £300,000, in respect of the grant payable to NCH.
3. To direct the States Advisory and Finance Committee to take account of the annual grant to the NCH when recommending to the States revenue allocations for the States Housing Authority in 2004 and subsequent years.
4. That administration of the property known as 17 Havilland Street be transferred to the States Housing Authority for use as training bed-sit accommodation for young people as set out in that Report, on such terms and conditions as may be laid down by the States Housing Authority and approved by the States Advisory and Finance Committee.
5. To authorise the States Housing Authority to seek and accept, subject to the approval of the States Advisory and Finance Committee, a tender for the renovation of 17 Havilland Street for use as training bed-sit accommodation for young people, chargeable to the capital allocation of the States Housing Authority as referred to in paragraph 10.4 of that Report.
6. That the States Rent Rebate Scheme be extended to apply to any person accommodated in the training bed-sit accommodation provided as part of the housing projects for young people, the rents for such accommodation being set at levels comparable to equivalent accommodation provided for States' tenants.
7. That contracts be drawn up between the States Housing Authority, States Children Board and NCH to formalise the arrangements set out in that Report, including service level agreements identifying the services to be provided, the standards to be met, and the outcomes to be achieved.

2020

## STATES PROCEDURES AND CONSTITUTION COMMITTEE

### THE ELECTORAL ROLL

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

14<sup>th</sup> October, 2002

Dear Sir,

### THE ELECTORAL ROLL

#### Introduction

1. At paragraphs 28-30 of the Harwood Report on the Review of the Machinery of Government in Guernsey the Panel stated:

*"Another feature of the present system of election, thought by many to operate against the principles of democracy, was the requirement for eligible electors to put their names on the electoral roll. Many of those giving evidence to the Panel suggested that the necessity for a conscious "opting in" by the electorate onto each Roll accounted for the low numbers of people included on the electoral rolls.*

*The Panel also took note of the number of representations that the establishment of the electoral roll should be the responsibility of the States or possibly of the Douzaines. It has also been suggested that the States or the Douzaines should ensure initially that the names of all eligible voters in all households are included on the Roll and that the States or the Douzaines should thereafter be responsible for updating the electoral roll at regular intervals. Such is the practice commonly adopted in other democratic systems.*

*The Panel would suggest that consideration be given to the establishment of an electoral roll that is not dependent upon individual households choosing whether or not to be included. The Panel also considers that the electoral roll once established should thereafter be maintained by the States or the Douzaines and regularly updated every twelve months."*

2. In Section D paragraph b6 of the consultation document issued by the Joint Committees it was noted that:

*"The Joint Committees agree with the Panel's recommendations in respect of a permanent electoral roll, the promotion of elections, the need for an appropriate body to deal with complaints and appeals regarding electoral procedures, and the introduction of more formalized election rules."*



3. On the 17th May 2002 the States resolved, inter alia, to direct the States Procedures and Constitution Committee to report to the States and submit appropriate proposals ... for provisions for an electoral roll inclusion in which shall not necessarily be dependent on making an application in that regard. This report deals with electoral roll and associated issues. The other matters referred to in the passage quoted above were covered, in part, in the Committee's report to the States which will be included in the Billet d'État for the October meeting of the States. Outstanding issues will be the subject of a further report to the States.

### **Previous reviews**

4. The call for a permanent electoral roll is not new. In 1946 a Committee of the Privy Council was appointed to inquire into reforms in the constitution and procedure of the States. In its report the Committee referred to criticism of the way in which the electoral roll was compiled. The Parish Constables were, at that time, responsible for the roll in their respective parishes. They discriminated between persons eligible for the franchise who were ratepayers and those who were not. The former were automatically included on the roll whilst the latter had to apply each year for inscription. Consequently female voters and male non-householders tended to be underrepresented. The Committee recommended that the roll should be compiled on a uniform basis without discriminating between ratepayers and non-ratepayers.
5. The Committee of the Privy Council's recommendation was achieved by adopting the National Register as the basis for the electoral roll in each parish. As a result there were 28,317 names on the electoral roll at the first General Election of People's Deputies in December 1948 following the introduction of the Reform (Guernsey) Law, 1948. Identity cards were checked and stamped at the polling stations to prevent plural voting. The same system was used in 1951. The States decided to end national registration with effect from 31st December 1952.
6. The end of national registration resulted in a dramatic decline in the number of electors from 29,523 in 1951 to only 9,650 in 1958. As a result the States constituted an Electoral Roll Investigation Committee. The principal recommendation in the Committee's report dated 4th January 1961 (Billet d'État I of 1961) was that the electoral roll should be totally abolished and that voters would simply sign a form, which would have been handed in at the polling station, certifying that they were eligible to vote. The States rejected that proposition but directed instead that an island-wide canvass should be carried out.
7. In 1964 door-to-door canvassing duly took place and the number on the roll increased to 18,485. No such campaign was mounted in 1967 and the number fell to 10,957. Since then forms have been delivered to each household and numbers have steadily increased so that the number of electors eligible to vote in 1997 was 27,009. The figure fell back slightly in 2000 to 26,333. It is estimated that there are approximately 45,000 persons eligible for inscription.
8. Appendix 1 is a graph showing population/eligible population/electors for the years 1948 to date and in addition the turnout from 1994 to date.

### **Systems in other jurisdictions**

9. In the course of the States debate in May, 2002 a number of States Members suggested that Guernsey was almost unique in requiring members of the public to apply to be

included on the electoral roll. Some Members stated, in particular, that in the United Kingdom enrolment was a once-only matter. This is not the case. Each autumn a form is sent to every household and it is the duty of the householder to complete the form and return it. Registration is compulsory in the United Kingdom and failure to complete an electoral registration form may result in a fine of up to £1,000.

10. The system has recently been modified in the United Kingdom by introducing "rolling" registration. This means that new electors may enrol at any time of the year and changes of address may similarly be notified at any time of year. Under the new scheme annual canvassing continues. Even though registration is compulsory in the United Kingdom it is understood that whilst 95%+ registration is achieved in some areas in others it is as low as 85%.
11. The position in Jersey is similar to the United Kingdom. In Jersey electoral registers are compiled by the Connétables who send a form on the 1<sup>st</sup> May each year to every unit of dwelling accommodation setting out the names of the persons currently registered for electoral purposes at that address. Each person resident at that unit of accommodation is required to check the accuracy of the statement. They have a further duty to sign the statement and ensure that it is returned to the Connétable.
12. Curiously, however, whilst the Public Elections (Jersey) Law 2002 imposes a duty on residents to check and return the form the Law explicitly states that "*no criminal or civil liability attaches to a failure to discharge a duty under this article.*". Approximately 71% of the potential electorate enrolled in 2002.
13. In New Zealand, Canada and Australia electoral registration is compulsory. Indeed, in Australia, voting is also compulsory. Whilst the system of registration is different in all the jurisdictions referred to in this section they all require periodic re-registration or confirmation of registration.

#### **Possible use of existing databases to form a new Electoral Roll**

14. The Committee considered whether it might be possible to use an existing database as the foundation for a comprehensive electoral roll containing, as near as possible, the names of all persons eligible to vote. It concluded that the best source of data was the Guernsey Social Security Authority records and the views of that Authority were therefore sought.
15. The Social Security Authority acknowledged that it probably did have the best list of names but pointed out that there was no requirement for contributors to advise the Authority of changes of address. Consequently many of the addresses are twenty years old and many may, therefore, be incorrect. A further difficulty if their records were to be used for electoral purposes was that the list contained names of seasonal workers and other persons who would not be eligible to vote.
16. In the light of the reply from the Social Security Authority the Committee considered whether any other source of existing data might provide a suitable base for electoral roll purposes. It concluded, however, that there is not. The Cadastre Committee has a comprehensive list of all property but its records show only the names of owners. Post Office records do not show any names at all whilst the utilities only have the consumers' names.
17. It is the Committee's view, therefore, that at present there is no existing database upon which an electoral roll could be formed. It is possible that, at some stage in the future, the

States may decide to set up an Identity Card Scheme (as has been suggested from time to time in the United Kingdom). In that case such a scheme would, no doubt, be a most useful tool for electoral purposes.

### **Fundamental requirements for an Electoral Roll**

18. The fundamental criterion for an electoral roll is that its accuracy must be maintained at a high level. The following changes must be taken into account:
  - addition of new electors;
  - deletion of electors who have either died or left the Island;
  - changes of name;
  - changes of address.

Under the existing system the names of persons who have died in Guernsey are deleted. Other deaths and persons emigrating from the Island are not known and therefore not deleted. Changes of name and address are processed but this relies on the elector advising the Registrar-General of Electors of the change. In practice only a small proportion of the electorate do so. This, together with unknown emigrants, causes the greatest degree of inaccuracy.

19. Introducing an electoral roll which does not require regular enrolment or confirmation or having a compulsory electoral roll would require considerable resources. As there is no other existing satisfactory source of data such a roll could only be achieved using data exclusively collected for that purpose. The Committee does not believe that the cost, in both staff and financial resources, of running such a system (which goes well beyond the provisions in both the United Kingdom and Jersey) can be justified. However it is of the view that other means can be taken to increase significantly the number of persons on the roll.

### **Proposals for improving enrolment**

20. At present an electoral roll application form is delivered by the Post Office to each household during the first week of September in the year preceding the year in which the quadrennial elections are held. Inevitably there are a few households who do not receive a form. However, forms are also available at a number of locations throughout the Island and additional forms are also mailed direct to applicants by the Registrar-General of Electors, upon request.
21. Interest in the electoral registration process is stimulated by the media and newspaper, television and radio advertisements are also used as a means of encouraging the public to return application forms. A weakness in the present system, however, is that it relies wholly on the electors being sufficiently interested in electoral matters. If a form is not returned no personal reminder is sent. It is easy for the form to be set aside or simply lost and consequently never returned whereas if the form is collected in person it is far more likely that the householder will take the trouble to complete it, ready for collection by the canvasser.
22. The Committee is of the view that there is much merit in a household canvass being carried out as happens during census periods. Consideration has been given by the Committee to holding a household canvass purely for the purpose of electoral registration but it has rejected the idea, on the grounds of cost. Based on the cost of the census

operation it is estimated that a canvass for electoral roll purposes only would cost in the region of £50,000. However, it might be possible, in the future, to carry out the electoral roll canvass at the same time as the census canvass. This idea will be pursued with the States Advisory and Finance Committee which has responsibility for census matters.

23. The census quite rightly is carried out on the basis of assured anonymity whilst the electoral roll is a public document. There may, therefore, be concerns in the minds of some that combining the two operations in one exercise is incompatible. The Committee would wish to allay any fears in that regard by giving an assurance that the two forms would, once returned to the office, be dealt with totally separately and information given for census purposes would not, and could not, be used for electoral purposes. Whereas the census form has, by law, to be completed it would remain a matter of choice as to whether the electoral roll application form is completed and returned.
24. The Law presently specifies that, in years specified by Ordinance, forms shall be delivered to each household during the first seven days of September. To enable the canvass to be held at other times, for example to coincide with the census (if found to be practicable by the Advisory and Finance Committee), it will be necessary to change the Law to allow the States, by Ordinance, to prescribe not only the year but also period of the year in which the forms are to be delivered.
25. ***Proposal 1: That the Law be amended to allow general revisions of the electoral roll to be held in such years and during such periods of the year as shall be specified from time to time by Ordinance.***
26. It should also be easier to update the roll in the intervening periods between the household canvasses. At present application for enrolment may only be made during September or October and addresses may only be changed between the 1st September and 20th January. With computer technology there is no reason why changes should not be accepted at any time and processed immediately.
27. ***Proposal 2: That a rolling registration process be introduced whereby eligible persons may enrol at any time and that persons already enrolled be enabled to notify changes in name or address at any time.***
28. If proposal 2 is accepted, however, it will be necessary to make provision for the electoral roll for a particular election or by-election to be closed a certain number of days or weeks before the date fixed for the election to enable production of electoral rolls for candidates and for polling stations. The Committee considers that some flexibility should be built into the Law to allow such periods to be specified by Ordinance or Regulation. This will allow changing circumstances to be taken into account without the need for an Order in Council. It is suggested that the date be specified by Ordinance insofar as elections of People's Deputies and Parish Representatives are concerned as the dates of such elections are set by Ordinance. The date of the election and date of closure of the electoral roll could, therefore, be set in the same instrument. Insofar as elections for parochial offices are concerned the date of closure of the electoral roll should be specified by Regulation.
29. ***Proposal 3: That the States be enabled to specify, by Ordinance, when the electoral roll shall be closed for the purpose of holding elections or by-elections of People's Deputies and Parish Representatives and that the Committee be enabled to specify, by Regulation, when the electoral roll shall be closed for the purpose of holding elections or by-elections to parochial offices.***

30. Article 34 (5) of The Reform Law specifies that each section of the electoral roll is to be published for inspection annually under the control of the Constables and Douzaines of the parishes between the 2<sup>nd</sup> and 17<sup>th</sup> January. Article 34 (6) requires the Roll to be similarly published by the Registrar-General of Electors at such offices of the States as he shall prescribe. If proposal 2 is approved the first two weeks of January may not necessarily be the most appropriate time to publish the Roll. The Registrar-General of Electors is constrained by article 34 (6) from publishing the Roll at places which are not offices of the States. Previously the Roll has been available at the Head Post Office in Smith Street but, since the Post Office was commercialised, those premises are no longer “offices of the States”. The Committee considers that there is no reason why the electoral roll should not be exhibited at suitable premises which are not States offices.
31. ***Proposal 4: That the Committee be enabled to specify, by Regulation, when, where and by what means the electoral roll shall be published for inspection.***
32. Article 27 of The Reform Law, 1948, as amended, provides that an electoral roll is valid for a period of one year save that the States may, by Ordinance, extend the validity of the electoral roll. If the principle of rolling registration set out in proposal 2 is accepted then the Committee believes that the next logical step is to remove the concept that the electoral roll is an annual instrument. It should remain valid until the States, by Ordinance, direct that it should be made afresh.
33. The current Roll was renewed in 1999 in advance of the 2000 General Election. The Committee is content that it is sufficiently up-to-date for it to be used for the General Election to be held in 2004. However, to encourage as many new electors as possible to join the Roll and also as a reminder to those already enrolled to check the accuracy of their entries, a publicity campaign will be held in the summer/autumn of next year. As a result of the amalgamation of some smaller parishes into combined electoral districts and the division of St. Peter Port into two districts it will, at the appropriate time, be necessary to send a poll card to all electors.
34. ***Proposal 5: That the validity of the current electoral roll, and any subsequent electoral roll, be extended until such time as the States, by Ordinance, direct that it be renewed.***
35. It is difficult at present to gain young people's interest in electoral matters. The United States of America has addressed this in a novel way by what is colloquially known as the Motor-Voter Law. Young persons applying for their first driving licence are automatically given an electoral registration form for completion. This has, apparently, had a significant effect on the number of young persons enrolling. The Committee sees no reason why this should not work in Guernsey as the vast majority of young people seem to apply for a provisional driving licence on their seventeenth birthday. This would enable their names to be added to the Roll with effect from their eighteenth birthday. This is, of course, just one example: the Committee intends to explore other possibilities for making enrolment more user-friendly.
36. ***Proposal 6: To note the Committee's intention to pursue ways of making registration easier, particularly for new voters.***

#### **Voting by persons omitted in error from the Electoral Roll**

37. At each election a relatively small number of persons turn up at the polling stations on the day of the poll only to discover that their names are not included on the electoral roll:

consequently they are unable to vote. In the vast majority of cases the reason is quite simply that the voter did not enrol but in a few cases it is as a result of an administrative error. The Committee recommends that such persons should be given the opportunity of signing a declaration stating:

- that they had applied for inscription on the electoral roll;
- that they fulfil the criteria for enrolment; and
- that they have not and will not vote at any other polling station.

The elector having signed the form, the Returning Officer would then issue him with a ballot slip in the normal way. The Committee further recommends that making a false declaration for the purpose of obtaining a vote under these proposed provisions should be a criminal offence.

38. ***Proposal 7: That the Law be amended to allow Returning Officers to issue a ballot paper to persons whose names are not entered on the electoral roll but who certify that they had made application for enrolment and that a false declaration made to obtain a vote shall be a criminal offence.***

#### **Public availability of Electoral Roll**

39. An ancillary point which needs to be considered is whether the use of the electoral roll should remain restricted for electoral purposes or whether it should be made available more widely than at present. At present the electoral roll is made available only to election officials and election candidates. The public have access to the roll in so far as they may inspect it but they may not obtain copies of it.
40. In the United Kingdom electoral rolls were, hitherto, made available and sold publicly. They were of particular interest to credit reference agencies. However, as a result of the case of *Robertson v City of Wakefield* electoral registrars now have to ask electors whether they consent to their names being included on the public lists for sale or whether the name is to be restricted to the list used for electoral purposes only.
41. At the time of writing this policy letter the annual registration canvass in England and Wales is underway. Early indications show that between 20% and 50% of the electors are opting out of the “public” roll. This calls into question the efficacy of maintaining a two-tier roll and the Committee has, therefore, reached no conclusion on the matter.
42. The Committee believes, however, that provision should be made to enable the Committee to determine, by Regulation, (i) which persons or categories of persons should be entitled to obtain copies of the electoral roll, (ii) by what means (whether electronic or otherwise) it may be supplied and (iii) the charges to be made.
43. ***Proposal 8: That provision be made as set out in the previous paragraph.***

### Recommendations

44. The States Procedures and Constitution Committee recommends the States:
- (1) to resolve that The Reform (Guernsey) Law, 1948, as amended, be further amended to provide that:
    - (a) in article 34 (1), the States be enabled to specify, by Ordinance, the year and period of the year in which electoral roll forms shall be delivered to each household;
    - (b) applications for enrolment on the electoral roll, notifications of errors and notification changes of name or address shall be accepted by the Registrar-General of Electors at any time;
    - (c) the States be enabled to specify, by Ordinance, the period during which the electoral roll, or a section of it, shall be closed for the purpose of holding an election or by-election of People's Deputies and Parish Representatives and that the States Procedures and Constitution Committee be enabled to specify, by Regulation, the period during which the electoral roll, or a section of it, shall be closed for the purpose of holding an election or by-election to a parochial office;
    - (d) the States Procedures and Constitution Committee be enabled to specify, by Regulation, when, where and by what means the electoral roll shall be published for inspection;
    - (e) the validity of the current electoral roll, and any subsequent electoral roll, be extended until such time as the States, by Ordinance, direct that it be renewed;
    - (f) a person be enabled to vote, notwithstanding that his name is not on the electoral roll, providing that he shall certify to the Returning Officer that he had made application for enrolment, that he remains eligible to vote and that he has not and will not vote or attempt to vote at another polling station;
    - (g) a false declaration made under (f) above shall constitute a criminal offence;
    - (h) the States Procedures and Constitution Committee be enabled to specify, by Regulation, which persons or categories of persons shall be entitled to obtain copies of the electoral roll, by what means (whether electronic or otherwise) they may be supplied, and the charge to be made for supplying the copies;
  - (2) to note the States Procedures and Constitution Committee's intention to pursue ways of making registration on the electoral roll easier, particularly for new voters.



**Conclusion**

45. It may assist Members of the States to have the precise wording of Article 3(4) of The Reform Law which will apply to the recommendations set out in sub-paragraph (1) above. The relevant article states:

*“... any resolution of the States of Deliberation directing the preparation of legislation to repeal or vary any of the provisions of this Law which is carried by a majority of less than two-thirds of the members present and voting shall not be deemed to have been carried before the expiration of seven days from the date of the resolution:*

*Provided that where before the expiration of the aforesaid seven days an application in writing signed by not less than seven members of the States of Deliberation is made in that behalf to the President such resolution shall be brought back before the States of Deliberation by the President as soon as may be after the expiration of three months from the date of the resolution whereupon such resolution shall be declared lost unless confirmed by a simple majority.”.*

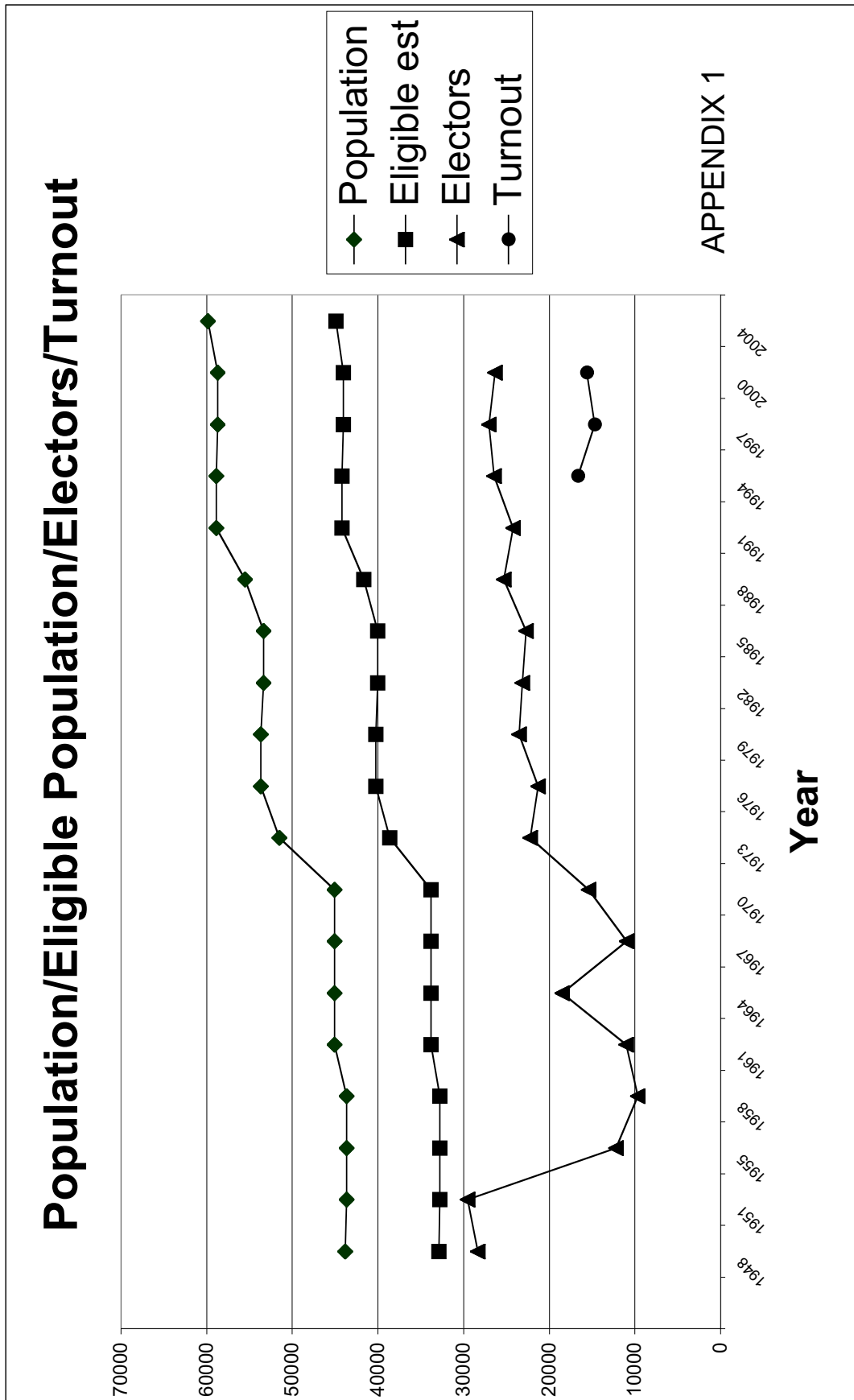
46. I should be grateful if you would lay this matter before the States with appropriate propositions, including one directing the preparation of the necessary legislation.

Yours faithfully,

R. C. BERRY,

President,  
States Procedures and Constitution Committee.





**(NB The States Advisory and Finance Committee supports the Proposals)**

The States are asked to decide:-

XXI.—Whether, after consideration of the Report dated the 14<sup>th</sup> October, 2002, of the States Procedures and Constitution Committee, they are of opinion:-

1. That The Reform (Guernsey) Law, 1948, as amended, be further amended to provide that:
  - (a) in article 34 (1), the States be enabled to specify, by Ordinance, the year and period of the year in which electoral roll forms shall be delivered to each household;
  - (b) applications for enrolment on the electoral roll, notifications of errors and notification changes of name or address shall be accepted by the Registrar-General of Electors at any time;
  - (c) the States be enabled to specify, by Ordinance, the period during which the electoral roll, or a section of it, shall be closed for the purpose of holding an election or by-election of People's Deputies and Parish Representatives and that the States Procedures and Constitution Committee be enabled to specify, by Regulation, the period during which the electoral roll, or a section of it, shall be closed for the purpose of holding an election or by-election to a parochial office;
  - (d) the States Procedures and Constitution Committee be enabled to specify, by Regulation, when, where and by what means the electoral roll shall be published for inspection;
  - (e) the validity of the current electoral roll, and any subsequent electoral roll, be extended until such time as the States, by Ordinance, direct that it be renewed;
  - (f) a person be enabled to vote, notwithstanding that his name is not on the electoral roll, providing that he shall certify to the Returning Officer that he had made application for enrolment, that he remains eligible to vote and that he has not and will not vote or attempt to vote at another polling station;
  - (g) a false declaration made under (f) above shall constitute a criminal offence;
  - (h) the States Procedures and Constitution Committee be enabled to specify, by Regulation, which persons or categories of persons shall be entitled to obtain copies of the electoral roll, by what means (whether electronic or otherwise) they may be supplied, and the charge to be made for supplying the copies.
2. To note the States Procedures and Constitution Committee's intention to pursue ways of making registration on the electoral roll easier, particularly for new voters.
3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

**(NB Proposition 1. above is subject to the provisions of the Reform (Guernsey) Law, 1948, as amended)**

## REQUÊTE

### BUILD YOUR OWN EQUITY SHARING HOMES FOR FAMILIES SCHEME

#### TO THE PRESIDENT AND MEMBERS OF THE STATES OF DELIBERATION

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation

SHEWETH:–

1. Your petitioners are of the opinion that home ownership should be encouraged and is preferable to rental on a long term basis.
2. Your petitioners are of the opinion that those families who enjoy high incomes are able to purchase or build their own homes using private and bank loans, and those of moderate means are able to purchase or build their own homes by using the excellent States Homes for Workers Loans.
3. Your petitioners are of the opinion that some Guernsey families will never be able to afford to purchase their own home, because of high plot or house prices, even though they are willing to save and work hard. The prices of houses continually rises ahead of their income and savings. These families although willing to save and work hard, see their savings and income dissipated on high rents from the private sector.
4. Your petitioners are of the opinion that the already overstretched rental accommodation market, both private and public could be eased by encouraging some of the Guernsey families, described in paragraph 3, to move to the home ownership sector.
5. Your petitioners are of the opinion that many Guernsey families consider that home ownership is preferable to life long rental accommodation, and that a considerable number who are in rented homes are unable to move to home ownership because of limited income, limited savings or because they are at an age where loans are not available.
6. Your petitioners are of the opinion that if land, plots and services could be provided via an equity sharing scheme, many families would be prepared to work hard on self build homes using basic low cost loans.
7. Your petitioners are of the opinion that the Housing Authority should be directed in principle to prepare and operate a self help scheme based on equity sharing with the States and that the scheme shall be based on but not necessarily bound by the following criteria and to report back to the States at an early date with workable details for such a scheme.
  - 7(a) The Scheme shall be based on the principle of self help and self build with States assistance where necessary.
  - 7(b) The Scheme shall attempt to provide self build equity sharing plots spread throughout the Island, and if possible sites provided in each Parish.
  - 7(c) That from now on the IDC shall include in rural and urban plans land specifically zoned for this purpose, and that the public shall be encouraged to offer land for this use.
  - 7(d) That land obtained for self build homes shall have the services (and roads if required) laid using States funding based on plans approved by IDC.

- 7(e) That families shall be invited to apply for self build plots if they satisfy the following criteria.
- 7(e)i They do not own or have a share of a home.
- 7(e)ii They have income below that which would enable them to purchase via private sector borrowing.
- 7(e)iii They have saved a moderate amount of money to go towards their home (£10–£20,000)
- 7(e)iv That the family, with help from the extended family or indeed anyone else are prepared to build their own homes on the plots provided.
- 7(e)v That the site/plot services costs are calculated as the percentage value of the completed building at the proper current prices, and provided free of charge to the recipients but held as the States portion of any Equity Sharing Scheme
- 7(e)vi That the home owner may be free to sell his home to other States appointed equity sharing partners on the understanding that the portion of the States equity of the property shall be properly valued and paid by the vendor in full to the States at the full current value and to be passed on to another purchaser.
- 7(f) That all self build homes may only be sold by the owners to another equity sharing homes for workers loans recipient.
- 7(g) That the names of applicants short listed by the Housing Authority for an equity sharing plot and loan shall where possible be allocated on a home Parish basis. And that if necessary the Housing Authority shall consult the Douzaines before final grantings occur.
- 7(h) That loans made to applicants shall be based on the Homes for Workers Loans Scheme or such other interest support scheme considered suitable by the Housing Authority and that the loan shall be calculated to provide the borrower where he is the original purchaser/ builder with sufficient capital to ensure, with their own savings, that they can purchase all the materials required to complete the basic structure of the building or (where the borrower is a subsequent purchaser) to ensure that, with his own savings, he can purchase the interest in the house belonging to the vendor, and in each case is within their income ability to repay.

THESE PREMISES CONSIDERED

YOUR PETITIONERS humbly pray that the States may be pleased to resolve as follows:–

To request the Housing Authority to liaise with the Island Development Committee and Advisory and Finance Committee and to report back to the States at an early date with detailed proposals for an equity sharing build and own scheme based on section 7 of the Requête.

AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY, this 14th day of September, 2002

R.C. BERRY

M.A. OZANNE

M.E. BEST

M.W. TORODE

P.N. BOUGOURD

A. SAUVARIN

D.P. LE CHEMINANT

P. ROBILLIARD

The President  
States of Guernsey  
Royal Court House  
St Peter Port  
Guernsey  
GY1 2PB

31 October 2002

Dear Sir

**REQUÊTE – BUILD YOUR OWN EQUITY SHARING HOMES FOR FAMILIES**

I refer to the Requête dated 14th September 2002 signed by Deputy Berry and seven other members of the States on the above subject.

The Advisory and Finance Committee has sought the views of the Housing Authority and the Island Development Committee on the Requête and their written responses are appended (letters dated 22nd and 15th October 2002 respectively).

In this year's Policy & Resource Planning Report, the Advisory and Finance Committee identified the availability of housing and especially, 'affordable' housing as the topic which consistently maintains the highest profile in local political debate. The report (paragraphs 2.7.39 & 40) explained that:

**“Although the provision of adequate housing is tacitly recognised as a priority issue this has not previously been stated explicitly in the Policy & Resource Planning Report. This year, the States is being asked to give formal endorsement to treat housing as a corporate priority through the mechanism of a Corporate Housing Programme.**

**The development of a Corporate Housing Programme is considered in detail in Part 1, Section 3.9 of this report which is part of the Implementation Section. It is intended to use this initiative as a pilot scheme for working across committee boundaries to achieve corporate objectives”.**

This commitment to develop a new, integrated way of tackling the provision of housing was unanimously endorsed by the States.

The Committee recognises the good intentions of those States members who have signed this Requête. The signatories include two members of the Committee itself. Nonetheless, the majority of the Committee appreciates the concerns expressed by the Presidents of the Housing Authority and the Island Development Committee in their committees' detailed responses and shares the view that the merits of a self build approach to affordable housing would be best considered under the auspices of the Corporate Housing Programme rather than as an individual initiative.

As the Housing Authority explains, it is already working on the delivery of shared equity housing through the medium of the Guernsey Housing Association and this approach will cater to a wider range of households than those interested in or capable of self build.

In terms of allocating land for equity sharing schemes, the Island Development Committee points out that there is no evidence of any housing land supply problem that would justify the exceptional release of additional sites in the Rural Plan areas where strategic policies promote conservation and enhancement of the rural environment. The new Urban Area Plan identifies a broad range of opportunities for housing development that could readily accommodate equity sharing schemes once a practical funding mechanism is agreed with the Housing Association.

Given the level of concern in the community about the amount, cost and quality of housing it is unsurprising that proposals are brought forward to target individual aspects of housing need. As the Policy and Resource Planning Report explained, however, tackling the housing situation effectively will require a “corporate effort to manage a complex mixture of issues which are interrelated and which change over time” (Paragraph 3.9.25).

Since the July Policy Planning debate, senior staff within the Housing Authority and the Advisory and Finance Committee have continued to work on the preparation of the Corporate Housing Strategy and Programme for presentation to committees and subsequent consideration by the States early in 2003. At the same time, the Active Projects and Policy Initiatives set out in Section 3.9 of the Policy & Resource Planning Report have been proceeding.

Against this background, the majority of the Committee considers that the diversion of committees’ attention towards the preparation of the proposed equity sharing, self build scheme set out in the Requête would be a well-meaning but unhelpful distraction from the task of fulfilling the States’ resolution for the development of a Corporate Housing Programme. It would be happy, however, for the costs and benefits of self build housing to be considered within the framework of the Programme itself.

Yours faithfully

L. C. MORGAN

President  
Advisory and Finance Committee

The President  
 Advisory and Finance Committee  
 Sir Charles Frossard House  
 La Charroterie  
 ST PETER PORT  
 GY1 1FH

22 October 2002

Dear Deputy Morgan

# **REQUETE ON BUILD YOUR OWN EQUITY HOMES FOR FAMILIES SCHEME**

I refer to your letter of 3 October 2002 seeking the Authority's comments on the content and potential effects of the above-named Requete led by Deputy Berry OBE.

The Authority considers that the Prayer of the Requerants is well-intentioned, but misguided and unnecessary.

While the Authority accepts that there will be some people who may wish to access a self-build scheme should one be available, the Authority is not convinced that there would be sufficient numbers to merit the development of a scheme as a priority measure to address the Island's housing problems. In the Authority's view, there are other measures that could help far greater numbers of people to enter the housing market and it is to the investigation of these measures to which limited staff resources should be directed in the first instance. (A good example is the investigation into planning agreements being undertaken jointly by the Authority and the Island Development Committee.)

Secondly, the Authority is surprised that the Requerants should bring forward a proposal for a very prescribed form of equity sharing scheme, when the States has already agreed that the Authority should "undertake further analysis of the means of introducing partial ownership schemes in Guernsey" and report back with details of the "advantages and disadvantages of the various forms of partial ownership" together with the funding and legislative implications (if any).

These States resolutions were deliberately drawn very widely and, therefore, the Authority would have had no difficulty in incorporating the Requerants' suggestions within the scope of its own ongoing investigations had they approached the Authority with a request to that effect. Instead, the placing of Requete will force an unnecessary States' debate upon a proposed scheme that, in the Authority's view, is far too tightly drawn and which, if accepted, is altogether too prescriptive in its intent.

With this comment in mind, the Authority would point out that:

- It may be that very few potential applicants to the scheme would have savings approaching £10,000, for the reasons set out in paragraph 5 of the Requete: in the Authority's view an equity share scheme should enable those without any savings to be able to purchase property;
- The Authority sees no reason why an equity share scheme should be limited to States Loan borrowers, or be restricted to self-build dwellings, or even to new dwellings;

- The criterion set out in paragraph 7(e)(vi) is unnecessarily too specific, particularly as it relates to the sale of the States' share of the equity. A similar comment applies to paragraph 7(f);
- It is unclear what useful role the Douzaines could play in the administration of the scheme other than to build in an additional level of bureaucracy.

Importantly, the Authority considers that there are no strong reasons why the acquisition of land and the provision of services must be undertaken by the States, nor indeed why the States should be required to provide all the funding for these activities or be solely responsible for the grant of loans.

The Authority also questions from where the funds for this scheme are to be made available – particularly given the concerns previously expressed by the Advisory and Finance Committee about borrowing for the Housing Development and Loans Fund. Furthermore, even if take-up is as low as the Authority predicts, the variety of tasks envisaged by the Requerants could require the Authority to take on at least one new member of staff to administer the scheme.

As explained in its policy letter on partial ownership schemes, shared equity schemes in the UK are usually delivered via a housing association. Taken together, the comments above suggest to the Authority that it would be better to encourage the development of a broader-based equity share scheme via a housing association which can receive States' grant funding (but also access private capital), rather than for the States to bear the full cost of developing, funding and administering a scheme that will only be accessed by a limited number of individuals.

Finally, the Authority is copying this letter of comment to the Island Development Committee and awaits with interest its views on paragraphs 7(b) and (c) of the Requete.

Yours sincerely

B M FLOUQUET

President  
States Housing Authority



President  
 Advisory & Finance  
 Sir Charles Frossard House  
 La Charroterie  
 St Peter Port  
 Guernsey  
 GY1 1FH

15 October 2002

Dear Deputy Morgan

**REQUÊTE: BUILD YOUR OWN EQUITY SHARING HOMES FOR FAMILIES SCHEME**

I refer to the Requête dated 14th September 2002, in connection with the above.

The Committee understands the intention behind this Requête and it considers that there is merit in examining the proposals. However, it believes that the housing situation is unlikely to be eased significantly by a scheme that is designed to meet the particular circumstances of a limited number of households.

The Committee would first point out that, so far as the Planning Law and IDC policies are concerned, the Committee is not in a position to control matters such as housing tenancy and occupation. However, through its Detailed Development Plans, the Committee is able to control the general availability of land for housing development and, to a limited degree, the density and size of housing built upon it.

In the case of the Urban Area Plan, in particular, its policies provide extensive opportunities for the development of housing. This could include the acquisition of suitable land by the States for an equity-sharing scheme.

The Rural Area Plan is currently under review and the Committee will be considering housing provision as part of the new Plan. However, given that the main thrust of the Strategic Land Use Plan Policy for the Rural Area is to direct most housing development to the Urban Area, the primary policy objective for the Rural Area will inevitably be to conserve and enhance its rural character. It is likely therefore that opportunities for new housing development in the Rural Area will be very limited, if the Plan is to be in conformity with current States' strategic policy for land use.

In terms of the present situation, the Committee can confirm that the number of existing planning permissions for new housing far exceeds the increased targets set by the States in July in the Strategic Land Use Plan. It is also worth noting that these current targets resulted from the findings of the Housing Authority's housing needs survey earlier this year. In terms of land supply, therefore, the Committee is confident that there is little evidence to support the need for identifying additional sites for housing.

Turning to the detailed wording of the Requête, the Committee would be concerned if, in future, it were required to zone land for self-build housing on the basis of offers received from individual landowners. In the Committee's experience, such offers primarily come from owners of agricultural land in the open countryside where existing land values are low and the

potential enhanced values of gaining planning permission are most attractive. Clearly, to encourage development in this ad-hoc and piecemeal manner would seriously undermine the Committee's long term strategy to protect the open countryside for future generations and risk repeating the mistakes of the immediate post war period when so much of our countryside was lost to "ribbon development".

In conclusion, and subject to the above comments, the Committee would be pleased to discuss this matter further with your Committee and the Housing Authority, should the Requête be successful.

Yours sincerely

JOHN E LANGLOIS

President  
Island Development Committee

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The States are asked to decide:—

XXII.—Whether, after consideration of the Requête dated the 14th September, 2002, signed by Deputy R.C. Berry, OBE, and seven other Members of the States, they are of opinion:—

To request the Housing Authority to liaise with the Island Development Committee and States Advisory and Finance Committee and to report back to the States at an early date with detailed proposals for an equity sharing build and own scheme based on section 7 of that Requête.

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

The Royal Court House,  
Guernsey.  
The 8th November, 2002.

# APPENDIX I

## STATES ADVISORY AND FINANCE COMMITTEE

### ACTUARIAL VALUATION OF THE STATES OF GUERNSEY SUPERANNUATION FUND

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

10<sup>th</sup> October 2002.

Dear Sir,

**Actuarial Valuation of States of Guernsey Superannuation Fund**

I enclose a copy of the Actuarial Valuation of the States of Guernsey Superannuation Fund as at 31 December 2001.

The Advisory and Finance Committee's comments and recommendations concerning the Actuarial Valuation will be included in the 2003 Budget Report.

I should be grateful if you would arrange for the publication of the Actuarial Valuation Report as an appendix to the Billet d'Etat for the November meeting of the States.

Yours faithfully,

L. C. MORGAN,

President,  
States Advisory and Finance Committee

# States of Guernsey Superannuation Fund

*Actuarial valuation as at 31 December 2001*

*Prepared for*

The States Advisory & Finance Committee

*Miss P E Merriman      Mr S M Jones      Mrs D E Simon*

*31 October 2002*

Bacon & Woodrow  
PO Box 68  
Albert House  
South Esplanade  
St Peter Port  
Guernsey  
GY1 3BY

**Partners** S J Ainsworth R M Benjamin S M Jones  
Mrs D E Simon I Morris Miss P E Merriman (Consultant)  
Bacon & Woodrow Partnerships Limited

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## Overview

We have carried out a valuation of the States of Guernsey Superannuation Fund (the Fund) as at 31 December 2001. The main purposes of the actuarial valuation are to review the financial position of the Fund and to recommend the rates of contributions payable to the Fund in the future.

The main conclusions from our valuation are that:

- **On the basis of our long-term assumptions there is a past service surplus of £57,598,000 in respect of Public Servants which corresponds to a funding ratio of 115.7%. A past service surplus of £3,892,000 is revealed in respect of Teachers, corresponding to a funding ratio of 102.6%. A past service surplus of £2,428,000 is revealed in respect of Guernsey Post Limited, corresponding to a funding ratio of 123.1%.**
- **We recommend that the additional contributions payable in the Public Servants Combined Pool are reduced to 0.5% for each step from 1.0%.**
- **In the light of the valuation results we recommend that the base level employer contribution to be paid in respect of Public Servants is increased from 6.25% to 7.35% of members' Salaries. This includes an allowance of 0.25% of members' Salaries to meet the expenses of the Fund.**
- **We recommend that the additional contribution rates payable in respect of the special benefit groups continue at the current rates.**
- **We recommend that the employer contribution rate payable in respect of the Teachers is reduced from 14.7% to 13.5% of members' Salaries. This rate also includes an allowance of 0.25% of members' Salaries to meet the expenses of the Fund.**
- **We recommend that the employer contribution rate payable in respect of Guernsey Post Limited is increased from 6.25% to 9.0% of members' Salaries. This rate also includes an allowance of 0.25% of members' Salaries to meet the expenses of the Fund.**
- **We recommend that the revised contribution rates be implemented with effect from 1 January 2003.**
- **The rates of contribution payable will be reviewed at the next valuation which is due to be made as at 31 December 2004.**
- **The States Members Pension Fund is combined with the States of Guernsey Superannuation Fund for investment purposes. A valuation of the States Members Pension Fund has also been made as at 31 December 2001 and a separate report containing the results of this valuation has been prepared. For convenience, the results of this valuation appear in Appendix F to this report.**

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This report has been prepared in accordance with Guidance Note GN9 issued by the Institute & Faculty of Actuaries.

This report must always be considered in the context of and is subject to the reservations with which it is given. It should not be disclosed to third parties without our prior written consent. We accept no liability to any third party who, having received it without our prior written consent, relies upon the results or advice contained in this report.

# 1. Introduction

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## 1.1 Regular valuations

This report sets out the results of our actuarial valuation of the States of Guernsey Superannuation Fund (the Fund) as at 31 December 2001. The previous valuation report of 5 November 1999 considered the financial position of the Fund as at 31 December 1998.

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## 1.2 Funding objective

The funding objective is for the Fund at all times to hold assets which are sufficient to cover its **past service ongoing liabilities**. These liabilities form the **funding target** and include an allowance for expected future increases to the Salaries of active members so that the cost of the Fund's benefits is considered over the longer term. The **past service ongoing liabilities** are continually changing as, for example, members accrue more service or salaries change and so the **funding target** is very much a moving target. This actuarial valuation forms part of the process whereby the progress of the Fund relative to its **funding target** is monitored. The recommendations in this report are designed to bring the Fund's assets into line with its **funding target**.

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## 1.3 Benefits

The valuation is based on the benefits defined in the Fund's legal documents at the valuation date.

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## 1.4 A snapshot view

This report concentrates on the Fund's funding position at the valuation date. As time moves on, the Fund's finances will fluctuate. It will therefore be necessary to carry out further valuations to monitor the position. If this report is being read some time after it was prepared, it should be borne in mind that, in the meantime, the Fund's funding position could have changed significantly.

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*In Appendix G to this report there is a general introduction to the valuation process. In Appendix H there is a glossary of some technical terms.*

*Terms used in this report which are defined in Appendix H are shown in bold type.*

## 2. Recent developments

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### 2.1 Previous valuation Public Servants

The report on the previous valuation showed a **past service surplus** of £48,125,000 as at 31 December 1998 and a **funding ratio** of 116.2%.

The **past service surplus** was used to reduce the employing departments' base level contributions from that which would have been payable if there had not been a surplus, although the base level contributions actually payable were increased from 5.0% to 6.25% of members' Salaries with effect from 1 January 2000.

---

### 2.2 Previous valuation Teachers

The report on the previous valuation showed a **past service deficit** of £1,380,000 and a **funding ratio** of 98.8%.

The employer contributions were increased from 13.7% to 14.7% of Salaries with effect from 1 January 2000 in order to meet this deficit.

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### 2.3 Guernsey Post Limited

An Actuarial Account was established in respect of active members employed by Guernsey Post Limited (GPL) with effect from 1 October 2001 with a starting balance of £12,078,000.

Prior to the establishment of the separate Actuarial Account, GPL participated in level 1 of the combined pool. Accordingly, following the establishment of the separate Actuarial Account the employer continued to contribute at the base level rate of 6.25% of members' Salaries.

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### 2.4 Guernsey Telecoms Limited

An accounting record equivalent to an Actuarial Account was established in respect of active members employed by Guernsey Telecoms Limited (GTL) with effect from 1 October 2001 so that cross subsidies in the Fund could be avoided during the period while an Equity Partner was sought. Subsequent to the valuation date, all the issued share capital of GTL has been sold and a new pension scheme has been established for employees. For the purposes of this valuation the actuarial accounting record and the liabilities of the members employed by GTL have been excluded.

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### 3. Scheme membership

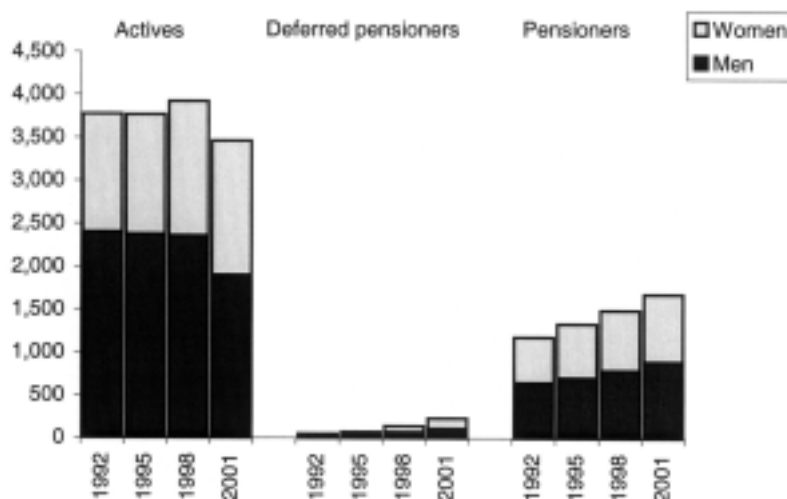
#### 3.1 Membership data

Details of the membership at the valuation date were supplied to us on a computer file extracted from the pension administration system.

The membership data is summarised in Appendix B. We have carried out detailed checks on the quality of the data but any inaccuracies should be notified to us.

#### 3.2 Membership changes – Public Servants

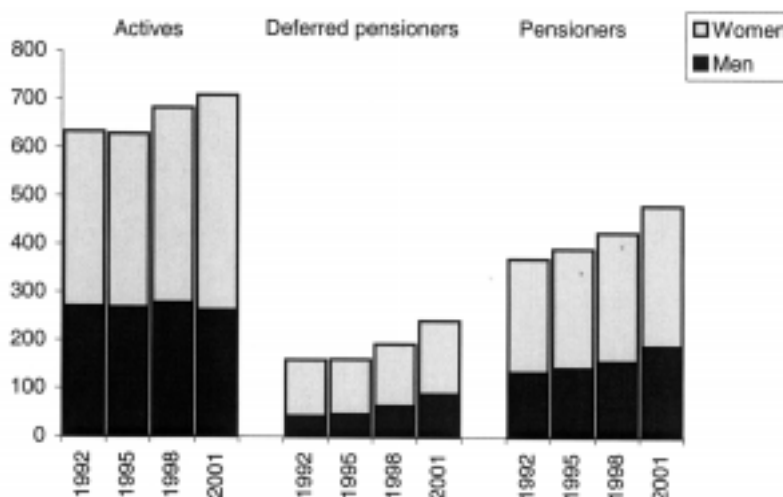
Changes in the number of members of the Public Servants Scheme at the valuation dates since 31 December 1992 are illustrated below.



The Public Servants Scheme has experienced a fall in the number of active members between 1998 and 2001. This is directly as a result of the establishment of two separate Actuarial Accounts on 1 October 2001. The numbers of pensioners and deferred pensioners continues to rise steadily.

#### 3.3 Membership changes – Teachers

Changes in the number of members of the Teachers Scheme at the valuation dates since 31 December 1992 are illustrated below.

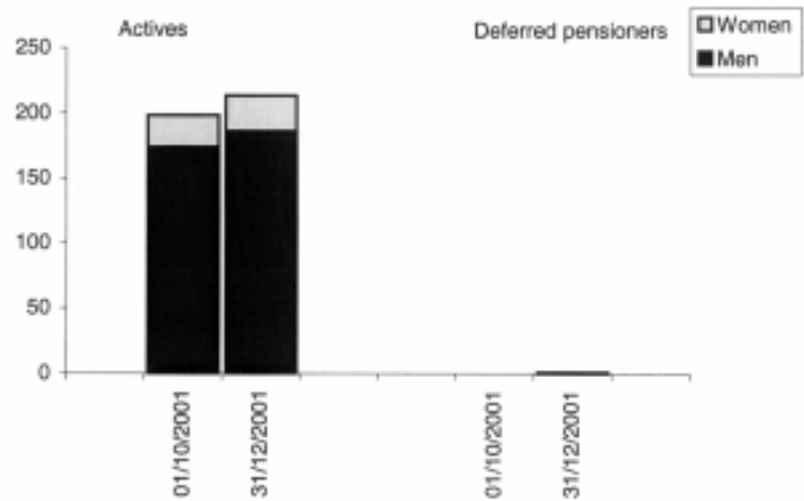


The number of active members, pensioners and deferred pensioners continues to rise steadily.

3. Scheme membership (continued)

3.4 Membership changes – Guernsey Post Limited

Changes in the number of members of the GPL Account since the Actuarial Account was established (1 October 2001) are illustrated below.



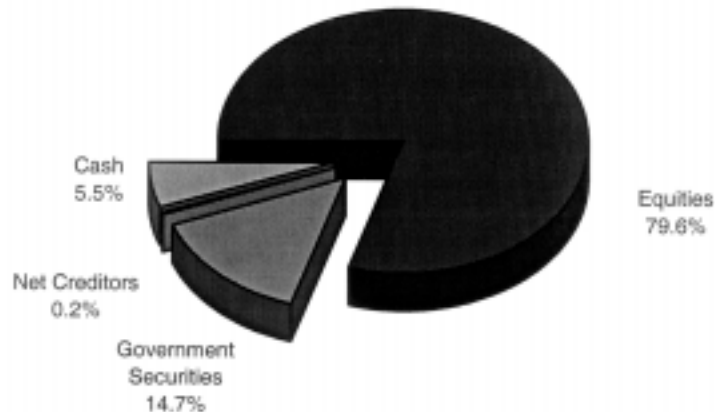
The active membership of the GPL Account has increased. The Account currently has no pensioners and only 1 deferred pensioner.

## 4. Scheme assets and Financial Developments

### 4.1 Assets

The Fund's audited report and accounts show that its assets had a market value of £461,218,000 in respect of Public Servants and £154,791,000 in respect of Teachers at the valuation date. We have been advised that the Actuarial Accounts held in respect of GPL and GTL were £12,946,000 and £23,568,000 respectively. These amounts have been included with the assets in respect of Public Servants in the accounts. Accordingly the assets held in respect of the Public Servants excluding GPL and GTL amounted to £424,704,000. These assets are held as combined funds and can be analysed as follows:

**Asset distribution**

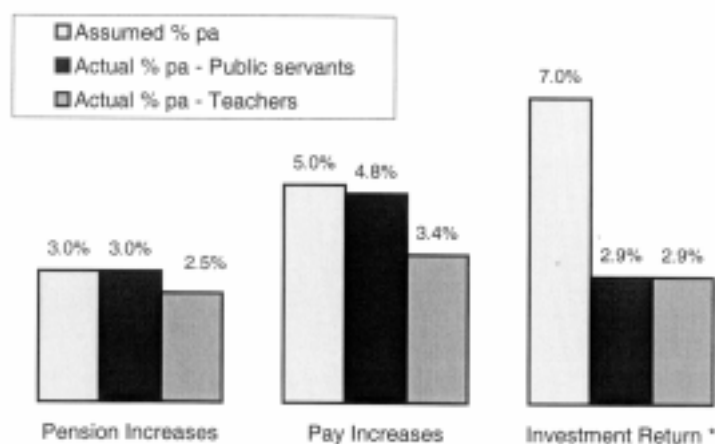


For further details see Appendix C.

### 4.2 Financial development

A variety of factors affect the financial position of the Fund, including the pension and pay increases granted, investment returns and dividend growth. To illustrate the Fund's financial development since the previous valuation, we have compared in the chart below the assumptions made at the previous valuation (in the left hand columns) with what actually happened (in the right hand columns).

**Key experience items**



\* relative to market values

In view of the short time since the Actuarial Account was established for GPL, we have not analysed its financial development in detail.

## 4. Scheme assets and Financial Developments (continued)

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### 4.3 Financial development

The three years since the previous valuation were characterised by low levels of inflation. The low levels of pay and pension increases shown in the above graph are a reflection of this. The investment return achieved on the market value of the assets was substantially lower than the return assumed at the previous valuation.

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## 5. Assumptions

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### 5.1 Facts and assumptions

The benefit structure of the Fund, its membership and its assets at the valuation date are all known facts. But the Fund's future finances also depend on uncertain factors such as future investment returns, pay and pension increases, rates of mortality and employee turnover. We therefore need to make assumptions about the long-term future, covering the period until all the present members have retired and all benefits arising from their membership have been paid.

---

### 5.2 Market-led approach

For this valuation, we have adopted a market-led approach in which

- the assets are taken into account at a value equal to their market value at the valuation date
- the liabilities are valued using financial assumptions derived from market yields on Fixed Interest and Index Linked Government Stock (gilts) at the valuation date

This approach reflects the fact that the liabilities could be most closely matched by investment in Fixed Interest and Index Linked gilts.

We have used the assumptions to estimate the timing and amount of all the future benefit payments. We have then converted these payments into **present values** using the assumed discount rate.

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### 5.3 Change in approach

This market-led approach represents a change from the traditional approach used in previous valuations under which the liabilities were valued based on long term assumptions and assets were taken into account at an actuarial value.

The principal reason for the change is that under a market-led approach there is greater transparency in the assumptions made.

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### 5.4 Derivation of financial assumptions

Since the assets that most closely match the Fund's liabilities are Fixed Interest and Index Linked gilts, the starting point for the choice of discount rate is the yields on gilts of appropriate term compared to the liabilities. However, the Fund's assets are largely invested in asset classes such as equities that are expected to produce higher returns over the long term future than gilts. We have taken some of this higher expected return into account by setting the discount rate used to value the liabilities equal to 1.75% pa more than the yield on Fixed Interest gilts at the valuation date.

The inflation assumption is derived from the difference between the yield on Fixed Interest gilts and the yield on Index Linked gilts at the valuation date. We have then added 0.5% to this assumption to allow for higher inflation experienced locally in recent years compared with that in the United Kingdom. We have assumed that pensions in deferment and in payment will increase at the rate of local inflation. We have further assumed that pensionable salary increases will equal 1.5% pa more than local inflation.

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## 5. Assumptions (continued)

### 5.5 Financial assumptions

The valuation results are sensitive to the choice of financial assumptions. The table shows the key financial assumptions used for this valuation and those used for the previous valuation. Important points to bear in mind are:

- The differences between the rates have a bigger impact on the results of the valuation than the absolute levels of each assumption
- Whereas the assumptions for the previous valuation were long-term actuarial assumptions, the assumptions used for the current valuation were derived from market yields at the valuation date.

Key financial assumptions		
	Current valuation % pa	Previous valuation % pa
<b>Pension Increases</b>	3.10	3.0
<b>Pay Increases</b>	4.50	5.0
<b>Investment return</b>	6.65	7.0

The assumption for pay increases is in addition to allowances for promotional increases.

### 5.6 Changes in assumptions

The assumptions used for this valuation differ from those used for the previous valuation. The principal reason for this is that we have taken the value of the assets to be equal to the market value at the valuation date and have valued the liabilities using financial assumptions derived from gilt yields at the valuation date. In particular, the assumed rate of pay increases is lower, and so is the assumed rate of investment return.

We have strengthened our allowance for male and female pensioner mortality by further increases in the age deductions applied to the tables previously adopted. This is to allow for the improving mortality of pensioners, both generally and in the light of recent experience, in this Fund.

We have revised our assumptions regarding the normal health retirement and ill health retirement of male established pre 1972 members to reflect actual experience.

The impact of all these changes on the Fund's liabilities is to place a higher value on these.

### 5.7 Volatility

We would expect the results of a series of valuations carried out using a market-led approach to be more volatile than results using the traditional method. This could be reflected in potentially large changes at successive valuations both in the surplus position and in the future service contribution rates.

Fluctuations in the future service contribution rate arguably reflect "true" changes in the future cost of benefits as expectations for future long term levels of investment return and inflation fluctuate. However, much of the volatility in the surplus position is likely to arise from relative movements between the Fund's assets and those assets that most closely match the underlying liabilities.

## 5. Assumptions (continued)

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The majority of the Fund's liabilities are linked to inflation via either pension increases or pensionable salary increases. The assets that most closely match the Fund's liabilities are therefore a combination of Index-Linked gilts to match the inflation linkage of these liabilities and Fixed Interest gilts to match the non decreasing aspect of these liabilities.

As a result of the mismatch between the actual assets held by the Fund and the matching assets there is likely to be volatility in the past service funding position. The Fund investments are currently mismatched because the States Advisory & Finance Committee have (understandably and having taken advice) chosen to invest some of the Fund's assets in asset classes such as equities that are expected to produce higher future returns than gilts. One of the risks that must be traded off against these expected higher returns is the increased volatility of the Fund's investment returns relative to those of the matching assets and, consequently, the risk of volatility in the past service funding position.

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### 5.8 Details

For further details of the assumptions see Appendix D.

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## 6. Valuation Results – Public Servants

### 6.1 Past service surplus of £57,598,000

The funding objective is to hold assets equal to the **funding target**. We have therefore compared the market value of the assets in the Fund with the actuarial value of its **past service ongoing liabilities**. The result of this comparison is as follows:

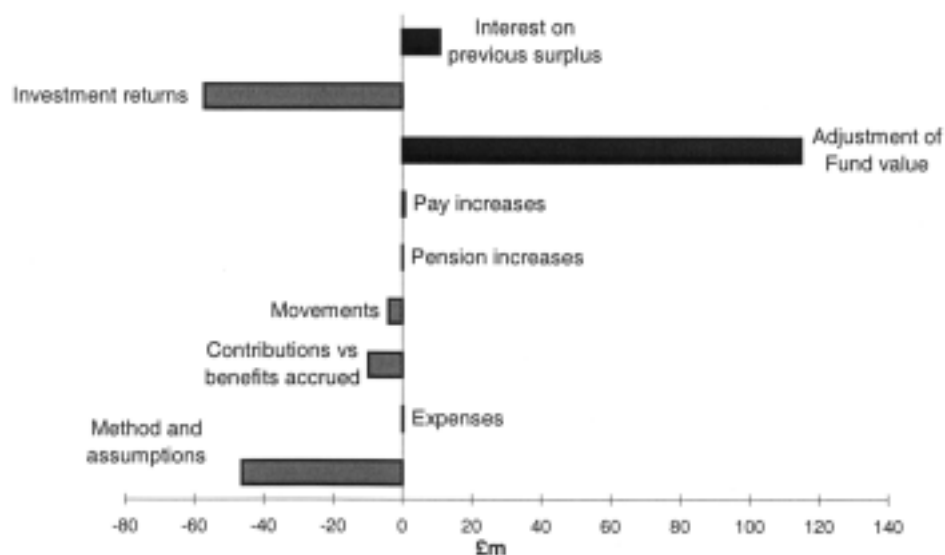
	£'000	£'000
Actuarial value of past service ongoing liabilities:		
Active members	211,161	
Deferred pensioners	15,030	
Pensioners	140,915	
Funding target		367,106
Market value of the assets		424,704
Past service surplus		<b>57,598</b>
Funding ratio		115.7%

The Fund has a **past service surplus** of £57,598,000. We discuss how this might be dealt with in our recommendations and conclusions.

### 6.2 Reasons for surplus

At the previous valuation the Fund had a **past service surplus** of £48,125,000. The past service position has therefore improved by £9,473,000 since the previous valuation. We have analysed below the reasons for the change, indicating the impact of each factor on the valuation result this time.

#### Sources of change in the past service position





## 6. Valuation Results – Public Servants (continued)

### 6.3 Reasons for surplus

The **past service surplus** has therefore increased largely due to the change in method used to value the Fund's assets as the previous write down in the value of assets from their market values has been removed, although this has been partly offset by the investment returns achieved which have been less than expected and the changes to the method and assumptions used to value the liabilities.

### 6.4 Employing departments future service cost

We have also calculated the cost to the employing departments of the benefits expected to accrue to members in future. This is the cost that would normally be appropriate if the Fund has no surplus or deficiency and the assets were exactly equal to the **funding target**. The method we have used to calculate this cost is the **attained age method**. This measures the cost of the benefits expected to accrue to members whilst they remain active members of the Fund.

	£'000
Actuarial value of future service benefits for active members	197,461
Less actuarial value of future contributions	
from members	57,901
from employer (for special groups)	11,445
Future service liability	128,115

### 6.5 Total service liability

The balance of liability revealed by the valuation, after allowing for the market values of the assets, of members' contributions and of contributions in respect of the special groups at the current rates, can be summarised as follows:-

	£'000
Past service liability/(surplus)	(57,598)
Future service liability	128,115
Total service liability	70,517

### 6.6 Future base level contribution rate of 7.35%

We have assumed that the levels of additional contributions payable in the Public Servants Combined Pool would be reduced to 0.5% for each step from the current level of 1%. We have also assumed that the additional employer contributions in respect of the special benefit groups would remain unchanged. Accordingly, we have calculated that the standard contribution rate required to meet the balance of liability revealed in respect of Public Servants amounts to 7.35% of members' Salaries (compared with the current level of 6.25% of members' Salaries). This rate includes an allowance for the expenses of the Combined Pool, other than investment management fees, of 0.25% per annum of members' Salaries.

Despite the increased past service surplus compared with three years ago, the standard contribution rate has increased as a result of the changes made to the actuarial assumptions which have placed a higher value on the liabilities accruing.

A summary of the proposed level of employer contribution rates for each step in the Combined Pool is set out below. A summary of the employing departments in each step appears as Appendix D.

**6. Valuation Results – Public Servants (continued)**

	<b>Proposed contribution rate %pa</b>	<b>Current contribution rate %pa</b>
Level 1	7.35	6.25
Level 2	7.85	7.25
Special Benefit groups		
Police and Fireman		
entrants on or before 31.10.91	22.85 (+15%)	22.25 (+15%)
entrants after 31.10.91	17.85 (+10%)	17.25 (+10%)
Senior Police and Fire Officers	14.85 (+7%)	14.25 (+7%)
Mental Health Officers	16.85 (+9%)	16.25 (+9%)
Crown Officers		
entrants on or before 31.10.91	10.85 (+3%)	10.25 (+3%)
entrants after 31.10.91	9.85 (+2%)	9.25 (+2%)
Level 3	8.35	8.25
Level 4	8.85	9.25

## 7. Valuation Results – Teachers

### 7.1 Past service surplus of £3,892,000

The funding objective is to hold assets equal to the **funding target**. We have therefore compared the market value of the assets in the Fund with the actuarial value of its **past service ongoing liabilities**. The result of this comparison is as follows:

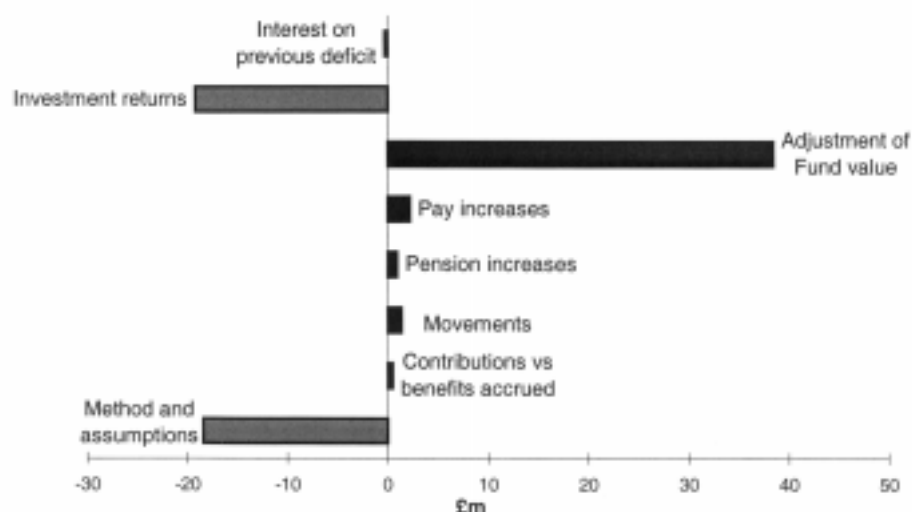
	£'000	£'000
Actuarial value of past service ongoing liabilities:		
Active members	83,613	
Deferred pensioners	10,912	
Pensioners	56,374	
Funding target		150,899
Market value of the assets		154,791
Past service surplus		<b>3,892</b>
Funding ratio		102.6%

The Fund has a **past service surplus** of £3,892,000. We discuss how this might be dealt with in our recommendations and conclusions.

### 7.2 Reasons for surplus

At the previous valuation the Fund had a **past service deficit** of £1,380,000. The past service position has therefore improved by £5,272,000 since the previous valuation. We have analysed below the reasons for the change, indicating the impact of each factor on the valuation result this time.

#### Sources of change in the past service position



## 7. Valuation Results – Teachers (continued)

### 7.3 Reasons for surplus

The **past service surplus** has therefore increased largely due to the change in method used to value the Fund's assets as the previous write down in the value of assets from their market values has been removed, although this has been partly offset by the investment returns achieved which have been less than expected and the changes to the method and assumptions used to value the liabilities. Pension and pay increases have been lower than assumed in the previous valuation.

### 7.4 Education Council future service cost

We have also calculated the cost to the Education Council of the benefits expected to accrue to members in future. This is the cost that would normally be appropriate if the Fund had no surplus or deficiency and the assets were exactly equal to the **funding target**. The method we have used to calculate this cost is the **attained age method**. This measures the cost of the benefits expected to accrue to members whilst they remain active members of the Fund.

	£'000
Actuarial value of future service benefits for active members	46,074
Less actuarial value of future contributions from members	13,143
Future service liability	32,931

### 7.5 Total service liability

The balance of liability revealed by the valuation, after allowing for the market values of the assets and of members' contributions can be summarised as follows:-

	£'000
Past service liability/(surplus)	(3,892)
Future service liability	32,931
Total service liability	29,039

### 7.6 Education Council contribution rate

The contribution rate required to meet the balance of liability in respect of the Teachers can be summarised as follows:-

	% pa
Past service liability/(surplus)	(1.8)
Future service liability	15.3
Total contribution rate required	13.5

The contribution rate revealed in respect of the Teachers can be compared with the rate of 14.7% currently being paid.

## 8. Valuation Results – Guernsey Post Limited

### 8.1 Past service surplus of £2,428,000

The funding objective is to hold assets equal to the **funding target**. We have therefore compared the market value of the assets in the Fund with the actuarial value of its **past service ongoing liabilities**. The result of this comparison is as follows:

	£'000	£'000
Actuarial value of past service ongoing liabilities:		
Active members	10,496	
Deferred pensioners	22	
Funding target		10,518
Market value of the assets		12,946
Past service surplus		<b>2,428</b>
Funding ratio		123.1%

The Fund has a **past service surplus** of £2,428,000. We discuss how this might be dealt with in our recommendations and conclusions.

### 8.2 Reasons for surplus

As only a short period of time has past since the Actuarial Account was set up, we have not fully analysed the sources of change in past service position on this occasion. However, the past service position has worsened due to increases in pensionable salaries at a higher rate than assumed and the changes in the method and assumptions used to value the liabilities.

### 8.3 Guernsey Post Limited future service cost

We have also calculated the cost to the GPL of the benefits expected to accrue to members in future. This is the cost that would normally be appropriate if the Fund had no surplus or deficiency and the assets were exactly equal to the **funding target**. The method we have used to calculate this cost is the **attained age method**. This measures the cost of the benefits expected to accrue to members whilst they remain active members of the Fund.

	£'000
Actuarial value of future service benefits for active members	10,718
Less actuarial value of future contributions from members	3,364
Future service liability	7,354

### 8.4 Total service liability

The balance of liability revealed by the valuation, after allowing for the market values of the assets and of members' contributions can be summarised as follows:-

	£'000
Past service liability/(surplus)	(2,428)
Future service liability	7,354
Total service liability	4,926

## 8. Valuation Results – Guernsey Post Limited (continued)

### 8.5 Guernsey Post Limited contribution rate

The contribution rate required to meet the balance of liability in respect of GPL can be summarised as follows:-

	% pa
Past service liability/(surplus)	(4.3)
Future service liability	13.3
Total contribution rate required	9.0

The contribution rate revealed in respect of GPL can be compared with the rate of 6.25% currently being paid.

## 9. Recommendations and conclusions

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- |  |  |
|--|--|
| <b>9.1 Past service funding</b>                    | The valuation shows that the Fund in respect of Public Servants continues to be well funded with a <b>past service surplus</b> of £57,598,000. This corresponds to a <b>funding ratio</b> of 115.7%. The Fund is in a satisfactory financial position in respect of Teachers with a <b>past service surplus</b> of £3,892,000 and a <b>funding ratio</b> of 102.6%. The Fund is well funded in respect of GPL with a <b>past service surplus</b> of £2,428,000 and a <b>funding ratio</b> of 123.1%. |
| <hr/>  |  |
| <b>9.2 Contribution required - Public servants</b> | We recommend that the base level employer contribution rate to be paid in respect of Public Servants is increased to 7.35% of members' Salaries. This includes an allowance of 0.25% of members' Salaries to meet the expenses of the Fund.  |
| <hr/>  |  |
| <b>9.3 Steps in Combined Pool</b>                  | We recommend that the additional contribution rates payable in the Public Servants Combined Pool are reduced to 0.5% for each step from 1.0%.  |
| <hr/>  |  |
| <b>9.4 Special benefit groups</b>                  | We recommend that the additional contribution rates payable in respect of the special benefit groups continue at the current rates.  |
| <hr/>  |  |
| <b>9.5 Contribution required - Teachers</b>        | We recommend that the employer contribution rate payable in respect of the Teachers is reduced to 13.5% of members' Salaries. This includes an allowance of 0.25% of members' Salaries to meet the expenses of the Fund.   |
| <hr/>  |  |
| <b>9.6 Contribution required - GPL</b>             | We recommend that the employer contribution rate payable in respect of GPL is increased to 9.0% of members' salaries. This includes an allowance of 0.25% of members' Salaries to meet the expenses of the Fund.   |
| <hr/>  |  |
| <b>9.7 Date of implementation</b>                  | We recommend that the revised contribution rates be implemented with effect from 1 January 2003.   |
| <hr/>  |  |
| <b>9.8 Next valuation</b>                          | We recommend that the contribution rates are reviewed at the next actuarial valuation of the Fund which is due as at 31 December 2004.   |
| <hr/>  |  |

Miss P E Merriman

Mr S M Jones

Mrs D E Simon

**Appendix A****Summary of the Provisions of the Fund**

The Fund has been established to provide for the payment of pensions and other benefits to or in respect of employees of the States of Guernsey who are either Public Servants or Teachers.

The Fund in respect of Public Servants was established with effect from 1 October 1972 by The States of Guernsey (Pensions and Other Benefits) Rules, 1972, and has been subsequently modified by various Resolutions of the States of Guernsey.

The Fund in respect of Teachers was established with effect from 1 January 1977 by The Teachers' Superannuation (Guernsey) Regulations, 1978, and has been subsequently modified by a number of amendments.

An Actuarial Account was established with effect from 1 October 2001 for Guernsey Post Limited in accordance with paragraph 1 of the Third Schedule to the States of Guernsey (Public Servants) (Pensions and Other Benefits) Rules.



**Appendix B****Membership data**

Active members - number of cases at 31 December 2001

		Established joined before 1 October 1972	Established joined on or after 1 October 1972	Unestablished	Total
<b>Guernsey Post Limited</b>	<b>Men</b>	4	59	123	186
	<b>Women</b>	2	11	14	27
<b>Teachers</b>	<b>Men</b>	-	-	-	263
	<b>Women</b>	-	-	-	445
<b>Public Servants (excluding special groups)</b>	<b>Men</b>	60	691	896	1,647
	<b>Women</b>	10	780	715	1,505
<b>Police and Firemen (including Airport Firemen)</b>	<b>Men</b>	-	-	-	231
	<b>Women</b>	-	-	-	24
<b>Mental Health Officers</b>	<b>Men</b>	0	2	16	18
	<b>Women</b>	0	3	24	27
<b>Crown Officers</b>	<b>Men</b>	0	5	0	5
	<b>Women</b>	0	0	0	0
<b>Total</b>		76	1,551	1,788	4,378

## Appendix B Membership data (continued)

### Active members - Total salaries at 31 December 2001

		Established joined before 1 October 1972 £	Established joined on or after 1 October 1972 £	Unestablished £	Total £
Guernsey Post Limited	Men	91,814	1,404,690	2,175,870	3,672,374
	Women	41,561	225,948	251,916	519,425
Teachers	Men	-	-	-	8,408,357
	Women	-	-	-	12,967,431
Public Servants (including special groups)	Men	2,304,307	21,382,486	17,073,048	40,759,841
	Women	262,964	16,395,359	13,285,913	29,944,236
Police and Firemen (including Airport Firemen)	Men	-	-	-	6,116,656
	Women	-	-	-	603,997
Total		-	-	-	102,992,317

### Deferred pensioners at 31 December 2001

		Number of Cases	Amount of deferred pension £ pa
Guernsey Post Limited	Men	1	2,149
	Women	0	0
	Total	1	2,149
Teachers	Men	89	365,718
	Women	152	428,335
	Total	241	794,053
Public Servants	Men	113	614,567
	Women	117	349,404
	Total	230	963,971
Total		472	1,760,173

## Appendix B Membership data (continued)

Pensioners at 31 December 2001

		Number of Cases	Amount of pension £ pa
<b>Teachers</b>	<b>Men</b>	184	1,980,671
	<b>Women</b>	258	2,072,365
	<b>Widows and Widowers</b>	39	104,447
	<b>Children's pensions</b>	3	5,211
	<b>Total</b>	484	4,162,694
<b>Public Servants</b>	<b>Men</b>	891	7,695,009
	<b>Women</b>	429	1,825,399
	<b>Widows and Widowers</b>	358	1,220,144
	<b>Children's pensions</b>	14	40,154
	<b>Total</b>	1,692	10,780,706
<b>Total</b>		2,176	14,943,400

There were no GPL pensioners as at 31 December 2001

**Appendix C****Assets**

The audited accounts of the Fund for the year ended 31 December 2001 give the assets of the Fund as £592,441,000 (after deduction of the Actuarial Account for GTL). These can be categorised as follows:

	<b>Market value (£0'000)</b>	<b>% of total</b>
<b>Equities</b>	471,612	79.6
<b>Government Securities</b>	87,162	14.7
<b>Cash</b>	32,337	5.5
<b>Net Creditors</b>	1,330	0.2
<b>Total</b>	<b>592,441</b>	<b>100.0</b>

## Appendix D Contribution Groups and rates paid

Summary of Membership Groups contained in the Combined Pool as at 31 December 2001

	<b>Member Group Name</b>
Level 1	Harbours
	Elizabeth College Non teaching staff
	Beau Sejour Leisure Centre
Level 2	* Police
	* Fire Service
	* Airport Fire Service
	* Nurses
	Insurance Authority
	Airport (excluding Fire Service)
	Works Department
	General Revenue (other employees)
	Ladies' College Non teaching staff
	Guilles-Alles Library
	* Crown Officers
	* Mental Health Officers
	Financial Services Commission
	Bailiffs Office
Level 3	Water Board
	Electricity Board
Level 4	Dairy

\* special benefit group

## Appendix D Contribution Groups and rates paid (continued)

Summary of the contribution rates paid since the previous valuation:

	1999 rate %pa	2000/01 rate %pa
<b>Public Servants</b>		
Level 1	5.0	6.25
Level 2	6.5	7.25
Special Benefit groups		
Police and Fireman		
entrants on or before 31.10.91	21.5	22.25
entrants after 31.10.91	16.5	17.25
Senior Police and Fire Officers	13.5	14.25
Mental Health Officers	15.5	16.25
Crown Officers		
entrants on or before 31.10.91	9.5	10.25
entrants after 31.10.91	8.5	9.25
Level 3	8.0	8.25
Level 4	9.5	9.25
<b>Teachers</b>	13.7	14.7

**Appendix E****Assumptions**

The actuarial assumptions used for assessing the long term funding target and the future service cost are summarised below.

**Financial assumptions**

<b>Rate of investment return</b>	6.65% pa
<b>Rate of pay increases</b>	4.5% pa plus an allowance for promotional increases
<b>Rate of pension increases</b>	3.1% pa
<b>Rate of increases of deferred pensions</b>	3.1% pa

---

**Demographic assumptions**

<b>Mortality before retirement</b>	Men: Standard table AM80 rated down by 3 years Women: Standard table AF80
<b>Mortality in retirement</b>	Men: Standard table PMA80 rated down by 5.5 years Women: Standard table PFA80 rated down by 4 years. Using this table implies that men and women aged 65 will live on average for a further 18 and 21 years, respectively
<b>Retirements</b>	Allowance has been made for retirements before Normal Pension Age by means of age related scales.
<b>Withdrawals</b>	Allowance has been made for withdrawals from service by means of age related scales
<b>Family Details</b>	Husbands three years older than their wives. 100% of members married at retirement or earlier death.

---

**Procedural assumptions**

<b>Expenses</b>	0.25% of members' Salaries
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**Appendix F Results of the States Members Pension Fund Valuation**

- We have made an actuarial valuation of the States Members Pension Fund (the “Fund”) as at 31 December 2001. The main purposes of the valuation are to review the Fund’s financial position and to recommend the appropriate rate of contribution to be paid by the States.
- The valuation method and actuarial assumptions used for the valuation are broadly the same as those used for the valuation of the States of Guernsey Superannuation Fund.
- The previous valuation of the Fund was carried out as at 31 December 1998 and showed a past service deficit of £182,190 and a funding level of 85.4% after taking credit for the outstanding past service contributions. The additional fixed annual payments of £35,000 per annum were to be continued to a further 6½ years from 1 January 2000 in order to eliminate the deficit.
- This valuation shows a past service deficit of £157,226 and a funding level of 87.1% after taking credit for the outstanding past service contributions.
- We recommend that contributions are increased to 22.9% of the annual compensation payments in order to fund the long term future service cost of providing benefits for current active members.
- We recommend that the additional fixed annual payments of £35,000 per annum should continue to be paid for 12 years from 31 December 2001 to meet the past service deficit.



## Appendix G

## General Background

This Appendix explains the background to actuarial valuations.

---

### Background to valuations

The finances of a pension scheme fluctuate in response to both external and internal factors. Money continually flows into the scheme as contributions and investment income and flows out of the scheme as benefit payments. The main purposes of the actuarial valuation are to review the scheme's finances and to recommend the rate at which the employers contribute to the scheme in the future.

The actuarial valuation involves calculations which compare the scheme's assets with a **funding target**. The **funding target** calculations assess the value of the benefits that will be paid from the scheme in the future using information about the scheme at the valuation date.

---

### The information used in a valuation

The information about the scheme which is used in the actuary's calculations is as follows:

- Details about its members, supplied by the scheme's administrator
- Information about the assets, from the scheme's audited accounts
- The rules of the scheme which define the member's benefit entitlements

There are other factors which will have an influence on the scheme's finances in the future. These include:

- Investment returns
- Pay increases
- Pension increases
- When members will retire
- How long members will live

The actuary makes assumptions about how these factors will behave in the future and uses these assumptions to put **present values** on the scheme's assets and liabilities.

---

### The valuation process and the actuarial report

The valuation is part of the role of the actuary in a pension scheme. The main results of the actuarial valuation are:

- An assessment of the surplus (or deficit) in the scheme at the valuation date, which shows how the scheme's assets compare to its **funding target**
- The long term cost of providing the scheme's benefits

The actuary combines the results of these two calculations to estimate the contributions needed to meet the scheme's **funding target** in the future. This may be lower or higher than the long term cost in order to adjust for the **past service surplus or deficit**.

The actuary also checks the scheme's financial position if it were to discontinue on the valuation date.

---

### What happens next?

The pension scheme's legal documents will set out the process which the scheme's trustees and the employers must follow to agree the rate of contribution which the employers pay to the scheme.

The results of the valuation will also be used to decide whether or not the trustees need to change their investment policy. This is because, as part of the report, the actuary is required by professional guidance to highlight any particular investment risks. These are useful pointers for the trustees to consider as part of any investment review.

**Appendix H****Glossary****Glossary of Technical Terms used in the Report**

**Actuarial value of assets** The value of the scheme's assets at the valuation date, as calculated for valuation purposes by the actuary. It could be the same as the market value, but will often be different.

**Attained age method** One of the common methods used by actuaries to estimate the cost of future benefits from a pension scheme. This method calculates the cost of the benefits expected to accrue to members over their expected remaining membership of the scheme expressed as a percentage of their expected future pensionable pay. It allows for projected future increases in pay through to retirement or date of leaving service. The method is based on the current membership and takes no account of the possibility of further members joining the scheme. If there are no new members, this method would be expected to result in a stable contribution rate, once surpluses or deficits are taken into account. However if more members join the scheme to replace older leavers, the contribution rate can be expected to fall if all the other assumptions are borne out in practice.

**Funding ratio** This is the ratio of the **actuarial value of assets** to the **funding target**. A funding ratio in excess of 100% means that the scheme has a **past service surplus**.

**Funding target** This is defined individually for each scheme. Usually, the funding target is the actuarial value of the **past service ongoing liabilities**.

**Past service accrued liabilities** This is the **present value** of the benefits which members are entitled to, based on service completed to the valuation date and on the basis that they leave service immediately. In the case of a final salary scheme this means that no allowance is made for future pay increases. It also includes the value of the benefits for members who have already left service - ie pensioners and preserved pensioners.

**Past service ongoing liabilities** This is the same as the **past service accrued liabilities**, except that the benefits are not based on entitlements as if the members left service. It allows for projected future increases to pay through to retirement or date of leaving service.

**Past service surplus/deficit** A past service surplus is the excess of the **actuarial value of assets** over the **funding target**. If the assets are smaller than the liabilities, then the shortfall is called the **past service deficit**.

**Present value** Actuarial valuations involve projections of pay, pensions and other benefits into the future. To express the value of the projected benefits in terms of a cash amount at the valuation date, the projected amounts are discounted back to the valuation date by the assumed level of investment return. This value is known as the **present value**. For example, if the interest rate was 8% a year and if we had to pay a lump sum of £1,080 in one year's time we would need to invest £1,000 now - this would be the **present value**.

**Projected unit method** One of the common methods used by actuaries to estimate the cost of future benefits from a pension scheme. This method calculates the cost of the benefits expected to accrue to members over a period (usually one year) following the valuation date. The cost is usually expressed as a percentage of the members' pensionable pay. It allows for projected future increases to pay through to retirement or date of leaving service. Provided that the distribution of members remains stable with new members joining to take the place of older leavers, the contribution rate calculated can be expected to remain stable. If there are no new members however, the average age will increase and the cost of benefits accruing will rise.



Policy and Research Unit

## APPENDIX II

### GUERNSEY RETAIL PRICES INDEX

**3.9% annual change as at 30 September 2002**

At the end of September, Guernsey's annual rate of inflation, as measured by changes in the Index of Retail Prices, was 3.9% compared with 3.3% at the end of the previous quarter.

Tuesday  
15th October 2002

Issued by:  
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Next publication date:  
21 January 2003

The Index Figures at the end of September 2002 were:  
110.1 (Dec 99=100)  
130.7 (Mar 1994 =100)  
176.6 (Dec 1988 =100)  
236.0 (Dec 1983 =100)  
374.7 (Dec 1978 =100)

Period	%	Period	%
3 Months	1.4	2 Years	6.5
6 Months	2.4	3 Years	11.3
9 Months	4.0	4 Years	13.3
12 Months	3.9	5 Years	17.8

#### Matters affecting the R.P.I during the last year

The main contributors to inflation during the last year were increases in the prices of Housing, Leisure Services and Tobacco. Clothing and footwear dropped over the last year and Food remained the same.

The Housing Group had the largest effect on the annual change; 1.5% out of the 3.9%. In this group there were rises in the costs of purchasing a house, the cost of employing tradesmen and other general building costs.

Leisure Services also increased due to a rise in the cost of holidays and fees for private education. In the other groups, there was a slight rise in the cost of Fuel/Light and Power; an effect of world energy price increases due to OPEC policy and tension within the Middle East. Motoring has risen as some insurance companies have introduced minimum premiums on car insurance.

#### Matters affecting the R.P.I during the last three months

The main contributors to inflation over the last **three months** were increases in the costs of house purchase, building work, sports and educational courses, women's clothing and fuel for domestic heating.

#### Annual % Changes for each quarter

	March	June	September	December
1990	10.2	9.7	10.4	9.8
1991	8.6	8.7	8.1	5.5
1992	4.6	4.1	3.6	3.2
1993	2.3	1.5	1.8	1.4
1994	2.9	2.3	2.0	2.4
1995	3.0	3.5	4.0	3.6
1996	2.5	2.1	2.0	2.8
1997	3.1	4.0	4.4	4.7
1998	4.1	4.0	4.0	3.2
1999	2.1	2.2	1.8	2.4
2000	3.8	4.4	4.5	3.9
2001	3.3	2.3	2.6	1.9
2002	2.9	3.3	3.9	

## GUERNSEY RETAIL PRICES INDEX - SEPTEMBER 2002

### PERCENTAGE CHANGES IN GROUP INFLATION AND THEIR CONTRIBUTION TO OVERALL INFLATION

#### GUERNSEY INFLATION RATE (+3.9%)

	Weight	Quarterly %Change	Annual %Change	% Contribution
Food	127	-0.6	0.2	0.0
Alcoholic Drink	52	0.4	3.8	0.2
Tobacco	19	2.4	15.8	0.3
Housing	216	1.4	6.4	1.5
Fuel, Light and Power	41	4.1	5.4	0.2
Household Goods	79	0.4	0.6	0.1
Household Services	33	0.7	4.4	0.2
Clothing & Footwear	56	5.1	-2.8	-0.2
Personal Goods	49	0.4	3.5	0.2
Motoring Expenditure	85	1.5	2.1	0.2
Fares/Other Travel	33	0.4	3.0	0.1
Leisure Goods	63	-0.7	-0.3	0.0
Leisure Services	92	4.1	8.6	0.9
Food Away from Home	55	0.1	2.5	0.2
Overall	1000			
All Items				3.9

**Weight** is the proportion of the total index represented by each group. **Contribution** shows the effect of price changes in relation to the relative weight of the groups.

### Retail Prices Index (RPI)

The RPI is a measure of inflation in Guernsey. It can be defined as "an average measure of change in the prices of goods and services bought for the purpose of consumption by the vast majority of households" (RPI Technical Manual, Office for National Statistics, 1998).

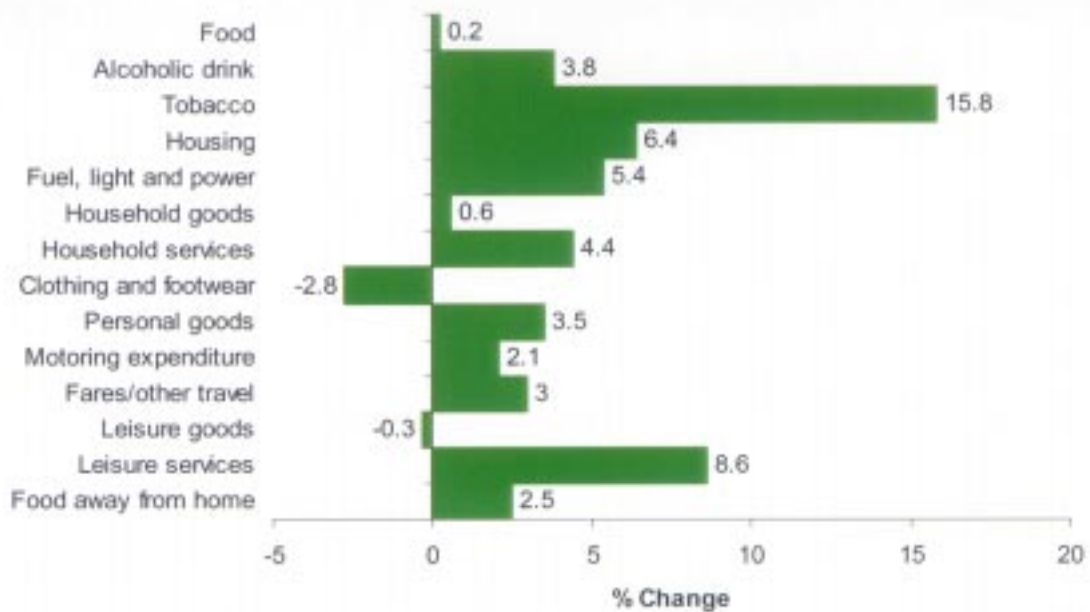
Goods and services that consumers purchase have a price, and these will vary over time. The RPI is designed to measure such changes. Imagine a very large shopping basket (over 2100 items) comprising all the different kinds of goods and services bought by a typical household. As the prices of individual items in this basket vary, the total cost of the basket will vary - the RPI is a measure of the change from quarter to quarter in this total cost.

No two households spend their money in exactly the same way and this basket of goods is compiled using spending pattern data from the Household Expenditure Survey. This is carried out every five years, hence the RPI index base is reset to 100 e.g. Dec 1999 = 100, Mar 1994 = 100 etc. The RPI while not applying precisely to any one household or person, will be close to the experience of inflation for the great majority of households.

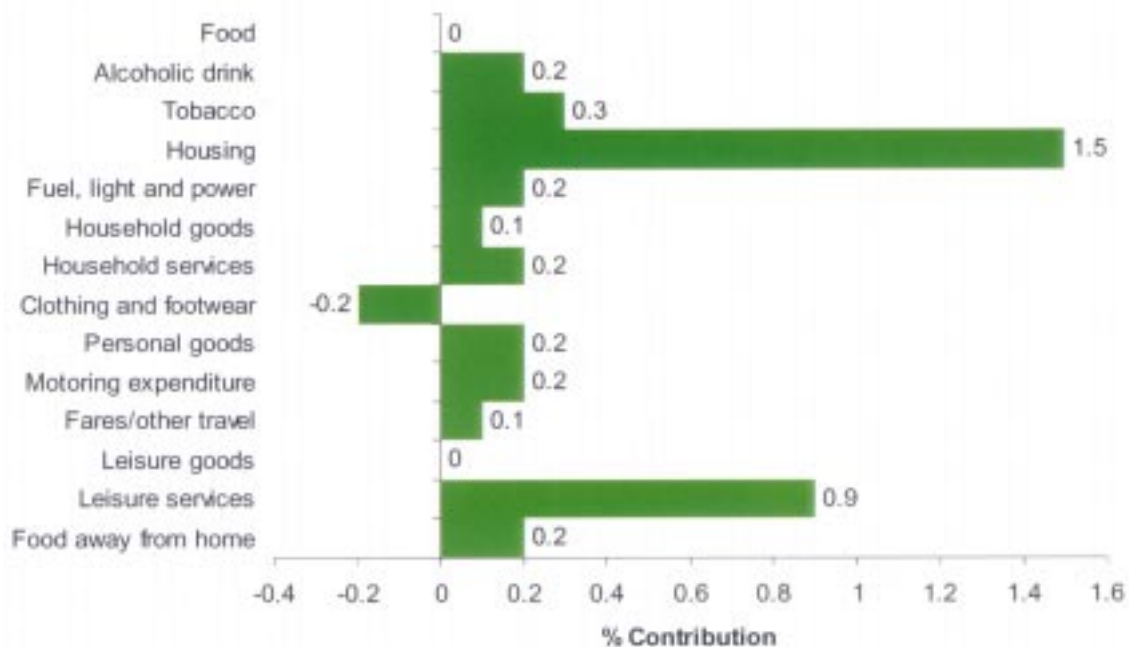


## GUERNSEY RETAIL PRICES INDEX - SEPTEMBER 2002

RPI main contributions to the percentage change in all items over 12 months



Percentage Contributions



## GUERNSEY RETAIL PRICES INDEX - SEPTEMBER 2002

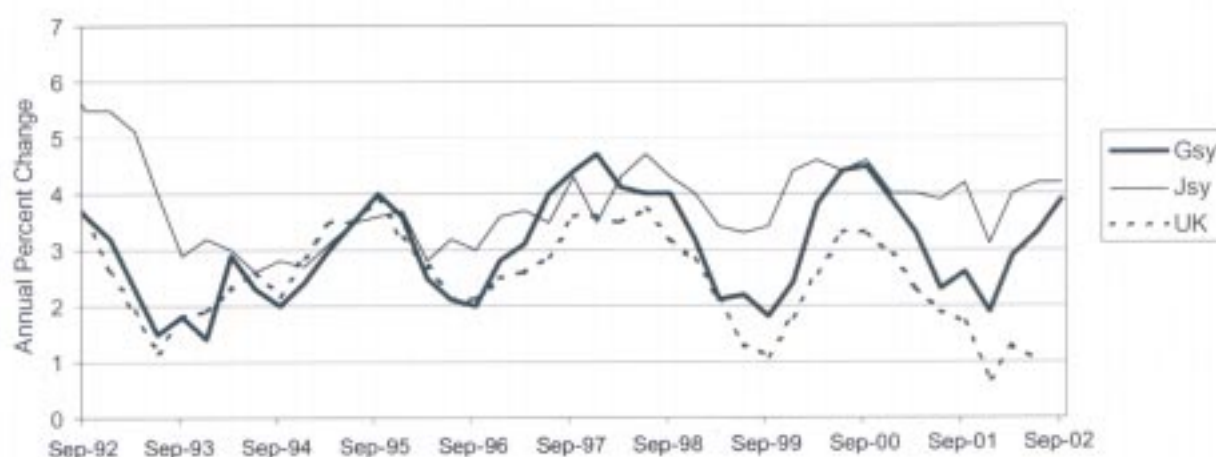
### RPI comparison with Jersey and the UK

Guernsey and Jersey tend to run at a higher rate than the UK, see chart below. The chart shows that inflation in Guernsey follows the general trends of the UK inflation rate, albeit at a higher level. In recent years, this has been at around 1% but this gap now appears to be widening.

The higher price rises in the Housing and Leisure groups causing the rise in the September quarter are also reflected in the increases in Jersey who also reported price rises in these groups.

		Annual Movements			Quarterly Movements		
		Guernsey	UK	Jersey	Guernsey	UK	Jersey
1998	Mar	4.1	3.5	4.3	0.9	0.5	1.7
	June	4.0	3.7	4.7	0.9	1.6	1.2
	Sept	4.0	3.2	4.3	0.6	1.0	0.9
	Dec	3.2	2.8	4.0	0.4	0.0	0.2
1999	Mar	2.1	2.1	3.4	-0.2	-0.2	1.1
	June	2.2	1.3	3.3	1.0	0.9	1.1
	Sept	1.8	1.1	3.4	0.4	0.5	0.9
	Dec	2.4	1.8	4.4	1.1	0.7	1.1
2000	Mar	3.8	2.6	4.6	1.2	0.3	1.3
	June	4.4	3.3	4.4	1.6	1.6	1.0
	Sept	4.5	3.3	4.6	0.7	0.4	1.1
	Dec	3.9	2.9	4.0	0.5	0.3	0.5
2001	Mar	3.3	2.3	4.0	0.6	0.0	1.4
	June	2.3	1.9	3.9	0.8	1.3	0.9
	Sept	2.6	1.7	4.2	0.8	0.1	1.3
	Dec	1.9	0.7	3.1	-0.1	-0.7	-0.6
2002	Mar	2.9	1.3	4.0	1.6	0.6	2.3
	June	3.3	1.0	4.2	1.0	1.0	1.1
	Sept	3.9		4.2	1.4		1.3

### Annual Rate of Inflation - Guernsey, Jersey and the UK



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## APPENDIX III

### STATES CIVIL SERVICE BOARD

#### STATES OF GUERNSEY PUBLIC SERVANTS' PENSION SCHEME: 2003 PENSION INCREASE

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

15 October 2002.

Dear Sir,

#### **STATES OF GUERNSEY PUBLIC SERVANTS' PENSION SCHEME:** **2003 PENSION INCREASE**

In accordance with the States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment No. 2) Rules, 1997, approved by the States on the 29th October, 1997 (Article X of Billet d'Etat No. XIX of 1997), I would advise you that the States Civil Service Board, after consultation within the Pension Consultative Committee, has resolved that pensions in payment and preserved pensions and other benefits not yet in payment be increased with effect from 1st January, 2002 as follows:-

- |  |    |   |
|--|----|---|
| (a) awarded prior to 1st January, 2002                                     | by | <b>3.3%</b>   |
| (b) awarded in the period from<br>1st January, 2002 to 31st December, 2002 | by | <b>1/365th of 3.3% for each<br/>day of entitlement.</b> |

(ie. in line with the change in the Retail Price Index for the twelve months ending on 30th June, 2002).

In accordance with the above mentioned Rules, I should be grateful if you would arrange for this letter to be published as an Appendix to the Billet d'Etat.

Yours faithfully,

A. SAUVARIN,

President,  
Civil Service Board.

## APPENDIX IV

### STATES EDUCATION COUNCIL

#### ST. ANDREW'S PRIMARY SCHOOL : VALIDATION REPORT

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

3rd October, 2002.

Dear Sir,

#### St. Andrew's Primary School : Validation Report

I enclose two copies of the summary of the validation report and the Council's response for the above school. I shall be grateful if you will arrange for this to be published as an appendix to the Billet d'État for November.

Copies of the full report will be made available for any member of the public to inspect at both the school and the Education Department.

Yours faithfully,

M. A. OZANNE,

President,  
States Education Council.



**ISLANDS' FEDERATION FOR THE EVALUATION OF SCHOOLS  
(IFES)**

**Summary of the Validation Report**

**ST ANDREW'S PRIMARY SCHOOL  
GUERNSEY**

**June 2002**

## SUMMARY OF THE VALIDATION REPORT

### ST ANDREWS PRIMARY SCHOOL

St. Andrew's Primary is a one form entry school, taking children mainly from the St. Andrew's parish and a States' housing estate in the Castel parish. There are 134 pupils on roll, made up of 74 boys and 60 girls, aged from 5 to 11.

They are taught by 8 full-time staff, including the headteacher, and 1 part time teacher. There are 7 classes with an average class size of 19 and a pupil/teacher ratio of 18: 1.

#### Background

The validation team consisted of five inspectors. Four were Ofsted inspectors from the UK and one was an IFES trained headteacher from Jersey. The team met informally with the staff and toured the school accommodation on the Sunday before the validation and then spent four days inspecting the school.

The school provided a comprehensive range of documentation and information in advance of the visit, having spent a year working on its self-evaluation activities. Additional information, including portfolios and children's work, was made available during the week. It received good support from the Island's Primary Education Officer and the Primary Advisory Teacher. All staff had attended the Education Department's IFES Internal Evaluator training course on how to carry out a self-review.

The evidence base to validate the school's findings was collected through

- \* scrutiny of a wide range of whole school and subject documentation from the last three years, including School Improvement Plans, portfolios, minutes of meetings and SATs results;
- \* observation of 70 whole or part lessons;
- \* examination and discussion of teachers' planning;
- \* attendance at assemblies and some extra curricular activities;
- \* examination of pupils' current and previous work;
- \* approximately 14 hours of planned discussions with teachers and other staff, pupils and parents;
- \* observation of pupils on arrival and departure from the school and at other times around the buildings and grounds;
- \* scrutiny of letters and returns from the confidential parental questionnaire.

At the end of the week, subject leaders received an oral feedback on their areas of responsibility, and the team's main findings were reported to the headteacher and her senior management team, and to the Director of Education.

## Main Findings

\* The headteacher and her staff have worked hard and successfully to raise standards since the last inspection in 1996.

\* Determined and inspirational leadership from the headteacher has ensured that commendable progress has been made in the key areas of management, curriculum, teaching, learning, attainment, behaviour and relationships with parents. The school is now well documented. Improvements are reflected in the school's SATs results and other tests.

\* As an IFES trained inspector within the VSSE system, the headteacher has used her experience well to plan and organise a thorough and accurate school self evaluation. All staff had attended training on how to conduct an internal review. The visiting team is pleased to validate the school's main findings and recommendations. They provide a secure basis for continued advancement.

\* During the validation week, 70 whole or part lessons were observed, in addition to assemblies and some extra-curricular activities. Of these, 91% were found to be satisfactory or better, and a third were of either good or excellent quality. This is a commendable improvement on the 64% at the time of the last inspection and reflects the time which has been devoted to planning, staff development, and the monitoring of classroom performance.

\* The best lessons have clear learning objectives, well planned targets and successfully match activities and resources to a wide range of ability levels. Good classroom management and organisation ensure that pupils stay on task, and are suitably assessed and rewarded for making progress. Particularly good examples were seen during teaching of the national literacy and numeracy strategies, and in PSHE, history, DT, art, RE and swimming. Developments in mathematics have been impressive.

\* In the few unsatisfactory lessons observed, the pace and timing were slow, there was overlong exposition by the teacher, insufficient opportunities for independent work, activities poorly matched to ability levels, off task behaviour, undated and untidily presented work, and ineffective use of the plenary session.

\* The school now provides a broader and more balanced curriculum than before, and there are effective systems of monitoring by the senior management team (SMT) and subject co-ordinators to ensure that expectations are met.

\* An effective policy for assessment, recording and reporting has been introduced and is being implemented well in most classes. There are many examples of high quality marking of children's work.

\* The School Improvement Plan (SIP) effectively guides the development of the school and the allocation of its resources. The current focus is appropriate, and addresses special educational needs, the Foundation Stage, pupils' writing and the creative arts.

\* The school is well led and managed. The headteacher receives good support from her newly constituted SMT and staff.

\* The newly appointed deputy head is providing valuable oversight and direction of the school's organisation for special educational needs, the analysis of data, the setting of targets and the drawing up of individual education programmes (IEPs).

\* Communications are good, with regular minuted meetings and annual staff development and appraisal interviews. Classroom assistants, the school secretary and caretaker all make valuable contributions to the work of the school, and all staff work together cohesively to achieve the school's aims.

\* The school's financial systems are efficiently administered. The small school budget provides little leeway for curriculum enhancement, replacement of old furniture and equipment, or for allowing money to be delegated annually to subject coordinators. The school is awaiting the necessary upgrading of its ICT hardware and software. There are adequate resources to meet the requirements of the Guernsey National Curriculum.

\* Good progress has been made in producing relevant school documentation, including up-to-date policies and schemes of work. Due attention is paid to planning. The adaptation of QCA material and the production of subject portfolios are assisting with curriculum continuity and progression.

\* The youngest children receive a secure and friendly introduction to school. Several of them have already benefited from attendance at the headteacher's weekly nursery afternoon. Most children are on track to achieve the six early learning goals.

\* An increased focus on standards of behaviour and dress has significantly raised standards, and staff work hard to address any difficulties posed by a few disruptive children. There is a strong programme of social skills and PSHE. Sound provision is made for pupils' spiritual and cultural development, and for social and moral development it is good. There are effective arrangements for children's welfare and guidance.

\* Efficient use has been made of available funds for in-service training. Further provision is needed in areas such as ICT, the Foundation Stage, music, PE, RE and art.

\* The school has made impressive strides in its enhancement of the school grounds and environment, winning a number of awards for its work. There is a positive, family ethos which is conducive to good teaching, learning and social development.

\* The positive returns from the parental questionnaire (Appendix A) pay testament to the school's considerable efforts to strengthen its partnership with parents and the local community. There is a high level of support and appreciation for the leadership of the headteacher and the work of the staff. The supportive PTA raises valuable extra funding for the school each year, and a number of parents and grandparents assist with a range of school activities.

\* Efficient use is made of the available staffing, learning and accommodation resources. The school provides good value for money.

### Key Issues that the School Needs to Address

\* The well organised and thorough school self evaluation exercise has correctly identified the key areas for further development, and these are endorsed by the validation team.

\* In order to sustain and continue improvements, the school should implement the priorities in the current SIP, particularly with regard to pupils' writing and the development of the Foundation Stage. It should also:

- continue to focus on regular curriculum monitoring by the SMT and subject co-ordinators, and the provision of relevant feedback to staff;
- rationalise the allocation of subject and line management responsibilities;
- analyse available data to assist with target setting, tracking and raising attainment for all pupils;
- continue to oversee planning, teaching and assessment strategies;
- ensure that there are sufficient opportunities within the curriculum for the practice and consolidation of children's skills and knowledge;
- establish the new special needs area, implement IEPs, and review inclusion and withdrawal procedures;
- seek to enhance the school's small annual budget;
- continue to develop levelled subject portfolios and to address the provision of differentiated work;
- provide in-service training for staff in the identified subject areas.

*The school is responsible for drawing up an action plan after receiving the Report, showing what it is going to do about the issues raised and how it will incorporate them in the school's Development Plan.*

*A follow-up visit to the school will be made in summer 2003 in order to monitor and discuss the progress the school has made, and a written report will be made to the Director of Education.*

## APPENDIX A

## St. Andrew's Primary School

## PARENTAL SURVEY

Number of questionnaires sent out	97
Number of questionnaires returned	68
Percentage return	70

Percentages of responses in each category	Strongly Agree	Tend to Agree	Tend to Disagree	Strongly Disagree	Don't know	Nil Response
My child likes school	60	39	1	0	0	0
My child is making good progress in school	40	46	10	0	3	0
Behaviour in the school is good	30	55	9	0	3	3
My child gets the right amount of work to do at home	34	49	10	6	0	0
The teaching is good	55	42	0	0	3	0
The school gives me a clear understanding of what is taught	60	39	1	0	0	0
I am kept well informed about how my child is getting on	43	40	12	1	2	1
I would feel comfortable about approaching the school	57	36	4	1	1	0
The school handles complaints from parents well	19	36	4	3	36	1
The school expects my child to work hard and achieve his best	49	45	1	0	3	1
The school is well led and managed	60	39	0	1	0	0
The school's values & attitudes are helping my child to become mature and responsible	63	34	1	0	1	0
The school provides an interesting range of activities outside lessons	45	40	7	3	4	0
The school works closely with parents	48	46	4	0	0	1

**STATES EDUCATION COUNCIL**  
**RESPONSE TO THE VALIDATION REPORT**  
**ON**  
**ST. ANDREW'S PRIMARY SCHOOL**

The Education Council and the staff of St. Andrew's Primary School welcome and accept the Validation Report of June, 2002. It is pleasing to note that recognition was given to the commendable progress the school has made since the previous validation. In addition, because the school's report was both accurate and thorough, the visiting team were able to validate the school's main findings and recommendations. These provide a secure basis for continued advancement.

There has been a marked improvement in the quality of the lessons observed by the validators. This is a reflection of the time devoted to planning, staff development, and the monitoring of classroom performance. The school now offers a broad and balanced curriculum in which expectations are high.

An increased focus on the standards of behaviour and dress has significantly raised standards and staff work hard to address any difficulties.

The school works hard and successfully to develop its links with parents and the local community, the former being extremely supportive of the work of the headteacher and her staff.

As identified in the school's internal report, there are some areas for development, but these will be addressed within the post-validation action plan.

Under the determined and inspirational leadership of the headteacher, St. Andrew's Primary School has made considerable progress since its last inspection in 1996. The school will now be working diligently to sustain, continue and extend the many improvements that have been made.

## **APPENDIX V**

### **STATES BOARD OF INDUSTRY**

#### **ANNUAL REPORT OF THE DIRECTOR GENERAL OF UTILITY REGULATION**

The President  
States of Guernsey  
Royal Court House  
St Peter Port  
Guernsey GY1 2 PB

20th September 2002

Dear Sir

#### **ANNUAL REPORT OF THE DIRECTOR GENERAL OF UTILITY REGULATION**

The Regulation Utilities (Bailiwick of Guernsey) Law, 2001 provides, in Section 8, that the Board of Industry shall submit to the States annually a report on the activities of the Office of Utility Regulation during the preceding year.

I enclose two copies of the Director General's report for the three months during 2001 when the Office was operating.

Section 8 3(b) of the Law also provides that the Board may, at the same time, submit its own report commenting on the activities of the Director General during this period.

The Board, on this occasion, has no comments to make and accordingly I would be most grateful if you would arrange to publish the Annual Report and Accounts 2001 as an appendix to the Billet to be presented to the States at the November 2002 meeting.

Yours faithfully,

JOHN ROPER,

President,  
States Board of Industry





Office of Utility Regulation,  
Bailiwick of Guernsey

# Annual Report and Accounts 2001

Year ending 31st  
December 2001

# Annual Report: 2001



Deputy FJ Roper  
President  
Board of Industry  
Raymond Falla House  
Longue Rue  
St Martins  
Guernsey GY4 6HG

29th August 2002

Dear Deputy Roper,

I am pleased to submit this report on the activities of the Office of Utility Regulation since its establishment on 1<sup>st</sup> October 2001 to 31<sup>st</sup> December 2001.

In accordance with section 8 of the Regulation (Bailiwick of Guernsey) Law, 2001, I would be grateful if you would present this report to the States of Guernsey as soon as practicable.

Yours sincerely,

**Regina Finn**  
**Director General of Utility Regulation**

Suites B1&B2, Hirzel Court, St Peter Port, Guernsey GY1 2NH,  
Tel: +44 1481 711120, Fax: +44 1481 711140, Web: [www.regutil.gg](http://www.regutil.gg)

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## Annual Report: 2001

*“Our business in life is not to get ahead of others, but to get ahead of ourselves—to break our own records, to outstrip our yesterday by our today”*

*-Steward B Johnson*



## Director General's Report

Guernsey may be a small economy, but it competes on an international stage. Guernsey's financial services sector is internationally known and respected, local businesses provide products and services to UK customers and further afield, and with a sophisticated and well travelled population, the level of service that Guernsey people receive in the Bailiwick must be in the same league as that of our near neighbours and competitors.

To keep our **competitive advantage**, we need to keep up with our neighbours and competitors, and we need to do so in a world that is changing around us by the minute; globalisation; broadband; 3G mobile; internet on the move; e-business; the number of buzz words associated with this fast changing world is bewildering. But whether these terms apply to new ways of doing old business, new business propositions, new means of shopping for books or music or new ways of voting for your public representative, they are all underpinned by one extremely important factor; **strong and equally forward looking utility sectors**.

And the good news is that Guernsey has put in place a framework for utility services that means not only can we afford to be ambitious, but we have already taken our place at the starting blocks.

In just a short space of time the new Office of Utility Regulation has been set up, the utility sector legislation has been completely updated, and Guernsey's utility companies themselves have started on the road to becoming more competitive, leaner organisations serving **the Guernsey consumer and economy**.

I believe that the telecommunications, post and electricity companies – existing operators and new companies – are best placed to deliver the sort of leading edge, robust infrastructure Guernsey needs to stay in the race. My Office will facilitate the industry in delivering this outcome, freeing up entry into the market, ensuring old monopoly ways do not and cannot endure, and protecting Guernsey consumers throughout this time of exciting challenge and change.

This report addresses the **first three months** of the operation of the Office of Utility Regulation in 2001 and touches on some of the momentous changes that have taken place in that time. I look forward to building on the foundations we have laid and expect our second annual report to fill in much of the detail of what we have now started.

**Regina Finn**  
**Director General of Utility Regulation**

# Annual Report: 2001



## **Guernsey's Regulatory Objectives are:**

- Protect the interests of users of utility services in terms of
  - Prices;
  - Quality;
  - Service levels;
  - Permanence; and
  - Choice.
- Secure utility services to satisfy reasonable demands;
- Ensure utility sectors contribute to the economic and social development and well-being of the Bailiwick;
- Introduce, maintain and promote effective sustainable competition;
- Improve quality and coverage of utility services;
- Facilitate availability of new utility services;
- Lessen adverse impact on the environment.

**- the Regulation (Bailiwick of Guernsey Law) 2001**

# The Guernsey Regulatory Environment

## Legislation

The States of Guernsey has adopted a modular approach to regulatory legislation and has initially decided to put in place laws governing the three utility sectors of telecommunications, post and electricity.

The main piece of legislation is the **Regulation (Bailiwick of Guernsey) Law, 2001** which establishes the Office of Utility Regulation (OUR), sets out the governing principles of the Office, and allows the States to assign further functions to the Office over time. This law was enacted on 1<sup>st</sup> October 2001.

The following three further laws have been put in place, one for each of the three utility sectors:

- The Telecommunications (Bailiwick of Guernsey) Law, 2001;
- The Post Office (Bailiwick of Guernsey) Law, 2001; and
- The Electricity (Guernsey) Law, 2001.

Each law sets out in more detail the powers and functions of the Director General in the relevant sector. The telecoms and postal laws were brought into effect on 1<sup>st</sup> October 2001, whilst the electricity law will be commenced early in 2002.

## States Directions

The Regulation Law provides that the States of Guernsey may give **States Directions** to the Director General on certain specific issues in each of the sectors. These include directions on:

- The identity of the **first licensee** in each sector to be granted a licence with a universal service obligation;
- The scope of a **universal service** or minimum level of service that all customers in the Bailiwick must receive;
- Any **special or exclusive rights** that should be granted to any licensee in any of the sectors and
- Any requirements on licensees that might be needed for Guernsey to comply with any of its **international obligations**.



# The Guernsey Regulatory Environment

This structure ensures that the **democratically elected** States of Guernsey retains responsibility for key policy decisions that shape the overall utility sectors while the independence of the Director General in implementing States policy is protected.

The States debated and agreed policy directions in relation to all three sectors in 2001. These directions are described in more detail in the sections of the report dealing with each sector and the full text of each policy direction is included in **Annex A** in accordance with section 8 of the Regulation Law.

## Independence and Accountability

The Laws require the Director General to be **independent, fair and impartial**, in carrying out her functions and to do so in a manner that is **timely, transparent and objective** and consistent with states policy directions.

The clear legal separation between OUR and the States of Guernsey allows the Director General to make decisions in the **best overall interests** of the people and economy of Guernsey without any real or perceived interference from vested interests. The independence of the office is underpinned by the fact that it is independently financed from licence fees in each of the sectors and is independently staffed and resourced.

The Director General is accountable to the States of Guernsey and must submit a report on the activities of the Office along with audited accounts each year. The Board of Industry also has the right to approve the overall numbers of staff in the Office, and the Law provides for an independent **Utility Appeals Panel and Tribunal** to hear appeals against decisions of the Director General.

*“...the smooth development of information society requires a solid legal and regulatory framework to create conditions of certainty for investors and consumers alike”*

*- Information Society, European Commission (website [www.europa.eu.int/information\\_society/topics/international/ceec\\_nis/text\\_en.htm](http://www.europa.eu.int/information_society/topics/international/ceec_nis/text_en.htm) last updated 23/05/02)*

These measures strike a balance between the essential need for independence so as to ensure that the market has confidence in the impartiality of the Director General's decisions, while at the same time ensuring appropriate accountability and protecting the rights of parties affected by decisions of the Director General.



# The Office of Utility Regulation

## OUR Office

The work needed to set up a physical office for OUR was well underway as 1<sup>st</sup> October 2001 approached, and OUR was located in its own separate offices in Hirzel Court in St Peter Port on its first day. The Office is small but independently run and staffed with its own computer network, telephone system and services.

On launch day, the Office also had in place its own fully functioning independent website ([www.regutil.gg](http://www.regutil.gg)) which has been extensively used as a communication tool with the regulated industries and interested members of the public. It has proven particularly useful in running public consultations and disseminating information with a total of **25 papers** published in 2001.

It is critical that all of the necessary expertise and experience is available to the Director General in arriving at regulatory decisions and putting in place regulatory frameworks that will pass the test of time and serve Guernsey's utility sector into the future. In its first three months the Office made use of a mixture of in-house expertise and outsourcing of projects, along with some short term contracts.

There were three Regulatory experts working within OUR in this period, one of whom was on a short term contract, and one Office Manager. With a total of **four staff** plus the Director General, the Office had less than 60% of its total approved staffing compliment in 2001. The dedication and hard work of OUR staff has been the key driver of the significant contribution the Office has been able to make in this short period of time.

## OUR Processes

OUR adheres to the principles set out in the Regulation Law and adopts processes that are in line with best international practice and tailored to the unique needs of Guernsey.

In 2001, the Office developed its open and **transparent** consultative process that underpins the Director General's decisions.

The adoption of a **consistent** approach to licensing across all three utilities has allowed for maximum **efficiency** in using resources. However, OUR takes the individual characteristics of each utility sector into account when making decisions in each sector.

- 
- **Fairness**
  - **Impartiality**
  - **Independence**
  - **Timeliness**
  - **Transparency**
  - **Objectivity**



# The Office of Utility Regulation

The Director General takes an **impartial** view of the industries and her role in protecting the interests of any of the regulated companies exists only insofar as it is necessary to meet the objective of delivering the best deal to Guernsey consumers and the Guernsey economy.

In line with international experience, where more **competition** develops, the Director General expects that the role of regulation will be reduced wherever possible, but only where customers' interests are adequately protected by the operation of effective competition. She will therefore keep the status of the markets under ongoing review.

## OUR Communication

The principles governing the OUR's approach to consultation are set out in the first published document: **OUR 01/01 Regulation in Guernsey – the OUR approach and consultation process**. Each of the twelve consultation papers issued in 2001 have followed these principles.

*In a complex and fast moving environment, open communication is essential. OUR seeks to encourage all groups and individuals to make their views known and help shape the regulatory regime for Guernsey.*

The Director General has been encouraged by the participation in these consultations and urges industry parties, policy makers and consumers to take the opportunity to ensure that their **views are heard** through the consultation process. Reports on consultations and decisions are also published and available from the OUR website and a full list of documents published in 2001 is at **Annex B**.

The Director General has also had meetings and discussions with a wide range of individuals and companies that are interested in or affected by the regulatory regime and continues to be pleased to have an ongoing open communication process.

During 2001 the Director General spoke at many public events and met with various organisations and bodies in order to explain the functions and role of OUR to as **wide an audience** as possible. Meetings and presentations included the Guernsey Consumer Group, the Audit Commission, the Chamber of Commerce, the Rotary Club and the Institute of Directors.

She also gave a lecture at the WEA Course on Economics run by the Economics and Statistics Unit of the Advisory and Finance Committee and spoke to an international audience at the **Conference of Commonwealth Postal Administrations** hosted by Guernsey Post in September on the Guernsey model for postal regulation.

# The Office of Utility Regulation

Taking the message of Guernsey's achievements to a wider audience, she also presented at an EU telecommunications conference on the Guernsey regulatory regime for telecommunications.

## OUR International Liaison

Guernsey operates as an independent jurisdiction but it is essential to look to the wider international stage for examples, benchmarks, lessons to be learnt and to monitor Guernsey's progress against **international best practice**.

In the field of regulation, links with the UK are particularly strong and the UK regulatory regime has an important role to play in Guernsey. For example, our telephone numbers are within the UK international number range (00 44) administered by Oftel the UK telecommunications regulator, and the UK Radiocommunications Agency handles the licensing of the use of radio frequency spectrum for Guernsey.

The UK also represents Guernsey's interests at many major international fora that Guernsey would not have the resources to attend, e.g. the ITU (**International Telecommunications Union**) and the WRC (**World Radio Conference**).

The Director General and OUR have established very good working relationships with the UK regulators and during 2001 the Director General met with David Edmonds, **Director General of Oftel**; David Hendon, **Director of the Radiocommunications Agency** and Martin Stanley, **Chief Executive of Postcomm**, the UK postal regulator. Working meetings with these organisations are ongoing to ensure the smooth operation of the Guernsey regulatory framework.



## Annual Report: 2001



*“The main underlying factor in the increase in telecommunications revenue has been liberalisation.”*

- OECD Communications Outlook 2001

# Telecommunications: Overview

## The Global Telecoms Market

By the end of 2001, most western developed economies had opened their telecommunications markets to competition (of almost 30 OECD countries, only two retained monopolies in parts of their markets), and the effects of this include an increase of 21.8% in the size of the market in revenue terms between 1997 and 1999. By 1999 the OECD telecoms market was worth USD 756 billion overall.

But 2001 was a **turbulent year** for telecommunications and technology firms worldwide. Global telecommunications companies, having surfed the crest of the technology wave for the previous few years, came crashing to reality as a general economic slowdown impacted on revenues, the events of September 11<sup>th</sup> shook market confidence worldwide, and European operators faced the mountain of debt that had been incurred to pay the billions of pounds in licence fees for 3G licences.

With the ebb of the unbridled optimism of the dot.com era, there have been casualties—some of the newer business models have simply not survived and many of the bigger companies are facing belt-tightening and debt restructuring.

But significantly, the **dominant incumbent operators**, those companies who started life as traditional phone companies and who still provide the core telecoms services we all use, have weathered this storm. The nature of core telecoms networks and services, the way they serve as a true “utility” in our modern economy, has meant that traditional telecommunications operators remain strong and growing entities.

## The Guernsey Telecoms market

In Guernsey the debt burdens being faced by European telecoms operators are not an issue. The market in 2001 was characterised by one operator – Guernsey Telecoms Ltd – a wholly owned States company with a legal monopoly which was not due to be removed until some time during 2002-2003.

## Telecommunications: Overview

Guernsey Telecoms Ltd is operating in a strong and sophisticated western economy notwithstanding its small size. With a population of over 62,000, two thirds of whom are in the 15-64 year age groups, historically strong GDP growth (with growth rates as high as 7.3%) and a leading offshore finance centre providing a variety of finance sector services such as banking, insurance, asset management etc, there are **clear opportunities for telecommunications growth**.

Fixed line penetration is high relative to European levels at 85%, while mobile penetration still lags behind Europe at 35% at the end of 2000 rising to 43% in mid-2001. Prepaid mobile services were introduced in November 2000 and have been growing rapidly.

The States of Guernsey has a pro-active **e-commerce policy** which seeks to encourage and facilitate e-commerce in the Bailiwick. This provides the telecoms sector with an opportunity to expand to meet the needs of this e-commerce customer base, while creating a challenge to the industry to have in place the physical and commercial infrastructure that is essential to the delivery of e-commerce solutions.

During the period covered by this report, the States of Guernsey was involved in a process to seek a strategic equity partner in Guernsey Telecoms Ltd and the timetable for removing the monopoly enjoyed by Guernsey Telecoms Ltd was published.



# Telecommunications: Policy Framework

## States of Guernsey Policy

On 1<sup>st</sup> October 2001, the policy framework governing telecommunications in Guernsey changed radically. The States enacted the **Telecommunications (Bailiwick of Guernsey) Law, 2001** which set the scene for the opening up of the telecommunications market to competition. It commercialised Guernsey Telecoms, which became **Guernsey Telecoms Limited** and was already in the middle of a process to seek an equity partner to purchase a controlling share in Guernsey Telecoms Ltd and run the company as a world class telecoms firm.

The States' policy envisaged Guernsey Telecoms Ltd as a major player in Guernsey and so the States directed the Director General **to issue to Guernsey Telecoms Ltd the first telecommunications licences** in Guernsey to contain a universal service obligation.

The States went on to set out in a States Direction the **scope of that universal service**, which includes access to a fixed telephone capable of making local, national and international calls, at affordable and uniform prices, anywhere in the Bailiwick of Guernsey.

Recognising the key role that liberalisation has played in delivering customer and economic benefits in telecommunications markets throughout the world, The States also directed that the existing **exclusive rights of Guernsey Telecoms Ltd, be removed** as soon as possible, and in any event, within three years.

Thus States policy is that competing operators should be licensed to operate in the market as quickly as possible. The Director General later announced a timetable that would see new operators capable of being licensed to provide **services from 1<sup>st</sup> July 2002, networks from 1<sup>st</sup> December 2002 and mobile networks and services from 1<sup>st</sup> April 2003.**

The stage was set for the ground rules for the new market to be developed.

The full text of the States Directions is set out in **Annex A**

*"Our values are about stability, security, confidence, entrepreneurship. We want to find e-business players who share the same values"*

*-Kevin Green,  
e-business director, Guernsey*



# Telecommunications: Activity Report

## Overview

Over the first three months of operation, OUR made a number of significant decisions and laid the framework for the telecoms market in Guernsey to develop in the coming years.

During 2001, the Director General concluded and implemented a **comprehensive licensing regime** for Guernsey Telecoms Ltd following an open and transparent consultation process. She also started the process of consulting on **licence terms and conditions for new entrants** into the market and started consultations on **price control** and **interconnection and access** – two key issues for the development of competition.

## Licensing

The primary tool of regulation available to the Director General is the licence framework. Licence conditions govern the operation of licensees in the market and it is essential that they are clear, transparent and publicly available so as to ensure that operators are aware of their obligations and customers are aware of their rights.

In August 2001, prior to the establishment of OUR, the Director General published a consultation paper on the licensing framework in Guernsey (**OUR 01/02**) which sought to implement a light handed regulatory regime that would allow as many activities as possible to exist outside the licensing framework, thus removing the administrative burden of applying for a licence. The report on the consultation published in September (**OUR 01/12**) set out those areas that the Director General considers fall outside the regulatory regime and announced the outline of how the licensing framework would evolve over time.

In August the proposed licence terms and conditions for Guernsey Telecoms Ltd were published (**OUR 01/03**) and following the receipt of comments, a report on this consultation was published in September (**OUR 01/13**). Final licence terms and conditions for the fixed licence (**OUR 01/18**) and the mobile licence (**OUR 01/19**) were published at the end of September.



# Telecommunications: Activity Report

In parallel with this, the Director General published and consulted on proposed decisions to find Guernsey Telecoms Ltd dominant in certain Guernsey telecommunications markets and therefore to apply certain specific licence conditions to the company (**OUR 01/04**). The report and final decisions were published in September (**OUR 01/14**).

On 1<sup>st</sup> October at a public press conference, two licences – one to provide fixed telecommunications services and another to provide mobile telecommunications services, were signed and issued to Guernsey Telecoms Ltd. The conditions in the licences applying to dominant operators were applied to Guernsey Telecoms Ltd including conditions designed **to prevent the abuse of a dominant position**, conditions on price control and conditions designed to protect consumers as well as conditions on quality of service.

The final licences issued to Guernsey Telecoms Ltd also contain time limited periods during which the company has a monopoly on providing services and networks in Guernsey and the dates on which those exclusive privileges will expire. These are:

- 1<sup>st</sup> July 2002 for the provision of telecommunications services;
- 1<sup>st</sup> December 2002 for telecommunications networks and leased lines; and
- 1<sup>st</sup> April 2003 for the provision of mobile networks and services.

Also in September an information notice on licence fees was published (**OUR 01/11**) following a consultation with affected parties. This notice set out the licence fees for the first full year of operation of OUR.

Having successfully issued the first licence to Guernsey Telecoms Ltd, the Director General went on in December to publish a consultation on the licence terms and conditions that should apply to **competing operators** in the fixed telecommunications market (**OUR 01/23**), and a consultation on the mobile telephony market in Guernsey and how competition might be introduced in the future (**OUR 01/25**).

At the end of 2001, Guernsey Telecoms Ltd had new and comprehensive licences to operate its fixed and mobile telecommunications networks and services, the timetable for licensing new operators in all parts of the market had been set, and the terms and conditions on which they would be licensed had been published for consultation.



# Telecommunications: Activity Report

## Costing

Among the licence conditions and the legal obligations on Guernsey Telecoms Ltd, some of the most important require the company to behave in a fair and non-discriminatory manner, to provide **cost-oriented services** to competitors and not to abuse its dominant position by predatory or other anti-competitive practices including unfair pricing, discrimination or cross-subsidisation.

To ensure that these obligations can be met, and to enable the Director General to monitor and enforce compliance with the obligations, the capture and recording of accurate costing information and the allocation of those costs in line with accepted principles is essential.

In preparation for a major work programme in 2002, the Director General commissioned Logica Consulting Ltd to undertake **a base line review** of the cost-accounting systems of each of the three utilities, including Guernsey Telecoms Ltd, to identify whether the systems were adequate to meet the requirements of the regulatory legislation and licences.

The results of this exercise provided the foundation for the development of **accounting separation guidelines** in 2002 as well as contributing to work on the price control on Guernsey Telecoms Ltd's services to end users.

## Interconnection and Access

In a liberalised telecommunications market where there is more than one licensee, but one licensed operator has a dominant position in the market, it is essential that new operators can **access the network** of the dominant incumbent so that they can provide services to customers on that network.

The Law provides for the publication by the dominant operator of a **Reference Offer** for interconnection and access. This is the “shopping list” of services that the dominant incumbent will provide to its competitors so that they can in turn provide services to end users in competition with the incumbent. This shopping list must meet the needs of new entrants into the market if they are to be able to compete and the terms and conditions on which the services are provided must be cost-oriented and **non-discriminatory**.

# Telecommunications: Activity Report

Guernsey Telecoms Ltd published its first draft Reference Offer in December 2001 and the Director General published an information note and call for comments in the same month (**OUR 01/24**). The conclusion of this consultation and the preparation of a final Reference Offer, including rates, was a major work stream for 2002.

## Price Control

As well as ensuring that costs are accurately captured and recorded, it is essential that the costs that dominant operators incur and pass on to customers are only those that an **efficient operator** would incur. In other words, dominant or monopoly operators who do not face effective competitive pressure in their market places can often behave inefficiently and incur unnecessary costs which their customers have to pay because the customers have little or no choice of provider when purchasing the service concerned.

In order to ensure that Guernsey consumers are protected from this possibility and that efficiency gains made by the dominant incumbent are passed to consumers, the Director General proposed to impose price regulation on Guernsey Telecoms Ltd and published a comprehensive consultation paper in November 2001 (**OUR 01/22**).

At the same time, a work stream to prepare the information necessary to make a decision on the level of any price control was started and continued into 2002 when final decisions were made.



## Annual Report: 2001

• • • • • • • • • •

- 40 million items of mail handled in Guernsey each year
- 12 million items within the Bailiwick
- 14 million items to the UK
- 14 million items internationally

# Postal Services: Overview

## World Postal Services

Postal markets in Europe are facing changing times, particularly the postal market in the UK. Under new EU rules these markets are gradually being opened up to **competition**, although individual jurisdictions are entitled to keep restrictions in place if that is necessary to ensure that all citizens receive a minimum or “universal” level of service. Existing State owned postal operators are changing ownership and positioning themselves to be the dominant providers of mail services in the internal EU market.

In the UK, the Postal Regulator, **Postcomm**, is consulting on opening up all of the UK postal market to competition and the incumbent postal operator Consignia (formerly Royal Mail) is facing difficult times in streamlining its operations, preparing for competition, cutting costs and meeting its regulatory requirements.

Add to this the new and evolving types of communication that blur the line between post and electronic communication, the increasing use of e-mail, the demise of the telegram and some exciting new opportunities for postal operators in the world of e-commerce and information management and this sector could be facing as much **change** in the near future as the telecoms sector has faced in the recent past.

## Guernsey Postal Market

Guernsey operates an independent postal service with deliveries and collections throughout the Bailiwick six days a week. Guernsey Post Ltd also provides a wide range of services that underpin local businesses, from normal mail to registered delivery and bulk mailing. There is a close relationship with Consignia in the UK and all of Guernsey’s international and UK mail goes to Consignia for onward delivery.

A range of other companies for example, Securicor, DHL, Fedex, Interlink Express, Relay Couriers, Skynet and TNT Express provide services to the Guernsey market in that part of the market that is **open to competition**.

More than 1.1 billion letters are posted each day for domestic delivery and close to 23 million letters cross national borders. This accounts for approximately 8.5 billion international letters per year.

- universal postal union

# Postal Services: The Policy Framework

## The Policy framework

On October 1<sup>st</sup> 2001, the States of Guernsey commenced the **Post Office (Bailiwick of Guernsey) Law, 2001** and at the same time transformed the former States Post Office Board into a commercial company – Guernsey Post Limited.

The States also set out a number of **States Directions** to the Director General that define the framework within which the postal industry and OUR are required to work.


First, the States directed that Guernsey Post Ltd should be granted the first licence in Guernsey to contain a universal obligation to provide postal services throughout the Bailiwick.

The States also defined the **universal postal service** to include at least one delivery and one collection on each of six days a week, along with a range of ancillary services. These basic services are to be provided to all residences in the Bailiwick at uniform prices.

Finally, in order to ensure the continuity, viability and security of this universal service, the States directed the Director General to grant to Guernsey Post Ltd, exclusive rights to provide certain postal services.

The area over which Guernsey Post Ltd is to be granted a monopoly is termed “**the reserved area**” and the States required the Director General to define this in more detail.

The full text of States Policy Directions is set out at **Annex A**.



*“The Post Office (Bailiwick of Guernsey) Law, 2001 sets out to provide an updated modern framework within which a vibrant and competitive postal sector can develop in Guernsey to deliver efficient, high quality and good value services to customers.”*

- Board of Industry Policy Letter,  
September 2001



# Postal Services: Activity Report

## Overview

In its first three months, OUR **defined the reserved area** for postal services in which Guernsey Post Ltd would have a monopoly and by definition liberalised the rest of the market. OUR also put in place a **comprehensive licensing regime** for Guernsey Post Ltd and identified the key issues in the postal sector that would be addressed going forward.

The Director General noted that a major external influence on the Guernsey postal market is its relationship with Consignia, the UK post office. With significant changes taking place in the regulation of the UK postal market and the operation of Consignia, this relationship is in a state of adjustment. The Director General has therefore set out the foundation for the development of costing and pricing regulation over the coming months as this **key external driver** for the Guernsey postal market is clarified.

## Licensing

In the postal sector, OUR adopted an approach similar to that in the telecommunications sector, using extensive consultation to finalise the scope and nature of the licensing regime to be applied to postal services in Guernsey. In August the proposed licence conditions that would apply to Guernsey Post Ltd in the postal sector were published for consultation (**OUR 01/05**) along with a proposed decision to find Guernsey Post Ltd dominant in the market for certain postal services in Guernsey (**OUR 01/06**).

Following the consideration of the responses received, reports on both of these consultations were published in September 2001 (**OUR 01/15 and OUR 01/16**) to enable the Director General to formally issue Guernsey Post Ltd with a full licence. This was done at a public press conference on 1<sup>st</sup> October 2001 and the licence terms and conditions for the company were also published (**OUR 01/20**).

Following the States Direction to the Director General that Guernsey Post Ltd should have a monopoly on the provision of services in so far as this was necessary to ensure the continuation and stability of the universal postal service, the Director General made an Order under the Postal Law to define what services Guernsey Post Ltd would have a monopoly on.



## Postal Services: Activity Report

In September 2001, an information note and the Order were published on the OUR website (**OUR 01/17**). Because Guernsey Post Ltd was found to have a dominant position in the market for reserved services, certain licence terms and conditions were applied to Guernsey Post Ltd to control its dominant position including conditions requiring the company not to abuse its **dominant position** or engage in **unfair practices** as well as conditions relating to **price control**.

### Costing Systems

The OUR commissioned Logica Consulting to undertake an examination of the Guernsey Post Ltd cost accounting system to enable the Director General to assess the adequacy of the system for regulatory purposes. This work provides a **platform for the development** of separated accounts for Guernsey Post Ltd and for the examination of the possibility of introducing price control in the future.

### Pricing

Given the significant uncertainties involved in identifying the cost base of Guernsey Post Ltd pending the clarification of the costs for services it receives from and provides to Consignia, the Director General deferred further consideration of price control for the postal market until 2002.



# Electricity: Overview

## World Electricity Markets

The opening up of electricity markets to competition is another part of the European Union policy on its internal market and like the post and telecoms sectors, the European electricity, and indeed gas, markets are facing inevitable change in their market structures. Already, generation in Europe is open to competitive entry and the use of **interconnectors** between countries allows trading of electricity between jurisdictions.

The EU programme for liberalisation requires that larger customers be allowed to choose their electricity supplier and proposes that by 2005 all customers should have a choice of who they purchase their electricity from.

Notwithstanding the introduction of competition in both generation and supply markets, the European “electricity network” businesses continue to be run by operators with exclusive rights it is generally recognised that this is a more cost-efficient way to provide electricity networks.

In the UK, the electricity market was opened to competition between September 1998 and May 1999 and over 25% of customers who can choose an alternative electricity supplier have done so. By June 2000 the customers who had switched were saving some £45 per annum on average—around 15% of their bill, while those who had remained with their existing electricity company were saving about £23 per annum due to overall competitive and regulatory pressure on prices, according to a National Audit Office report.

## Guernsey Electricity Market

The Guernsey electricity market is small with approximately 30,000 customers and it is served by the States Electricity Board (due to be commercialised as Guernsey Electricity Ltd in 2002). The States Electricity Board has a monopoly on all aspects of the generation, transmission and supply of electricity and meets the needs of the island by a combination of on-island generation capability and electricity imported over an interconnector from France via Jersey.

**“since electricity supply competition began [in the UK] in September 1998 more than 6.5 million customers – one in four – have saved money by changing supplier”**

**- National Audit Office**



# Electricity: The Policy Framework

## The Policy framework

The Electricity (Guernsey) Law, 2001 was approved by the States of Guernsey but is not due to be commenced until 2002, at the same time that the former States Electricity Board will be transformed into Guernsey Electricity Ltd – a wholly stated owned commercialised utility company.

In preparation for that date in 2002, the policy framework for electricity has been set out by the States for the island of Guernsey. This framework does not extend to the other islands in the Bailiwick.

In September 2001 the States decided that Guernsey Electricity Ltd when it was formed would play a central role in the Guernsey electricity market and issued a States Direction to the Director General to issue **appropriate licences to Guernsey Electricity Ltd** when it was formed.

In directing the Director General to issue a **public supply** licence to Guernsey Electricity Ltd, the States noted that the licence brought with it a **public supply obligation** that would ensure that the company was obliged to supply all premises in Guernsey with electricity on request, and therefore that the legislation and the new regime protected the interests of users and there was not a need to make additional directions in relation to universal service.

The States also directed that Guernsey Electricity Ltd should not have any monopoly rights in relation to the generation of electricity meaning that any interested party could apply to OUR for a licence to generate electricity in the Island of Guernsey in **competition** with Guernsey Electricity Ltd.

With regard to the remainder of the electricity market – the conveyance of electricity and supply of electricity, the States directed that Guernsey Electricity Ltd should have a **monopoly on conveyance** for a period of 10 years as this aspect of the business is likely to be a natural monopoly and it has been common in other jurisdictions to retain it with one company. On supply the States directed that one year of exclusivity be granted to Guernsey Electricity Ltd in its licence and requested the Director General to investigate this aspect of the market and **report back to the Board of Industry** on the introduction of competition into this market in the future.

The full text of States Directions is set out in **Annex A**.

# Electricity: Activity Report

## Licensing

In preparation for the commencement of the relevant legislation the Director General consulted publicly during August on the regulatory framework for electricity in Guernsey (**OUR 01/07**), the proposed licence terms and conditions that would be included in electricity licences (**OUR 01/08**) and a proposal to find that Guernsey Electricity Ltd (following incorporation) was dominant in the generation conveyance and supply markets in Guernsey (**OUR 01/09**).

This last proposal meant that certain specific conditions in the electricity licences would be applied to Guernsey Electricity Ltd to control its dominant position including provisions in relation to price control and unfair practices and cross subsidisation

In September, the Director General extended the time for responses to these consultation papers on the basis that the relevant Laws would not be commenced until early in 2002 (**OUR 01/10**). This gave all interested parties a further opportunity to comment on the issues raised in the papers.

### Guernsey's Electricity Sector has:

- Approximately 30,000 electricity customers;
- Peak demand of approximately 65MWh;
- An interconnector link to France via Jersey;
- Significant on-island generation capacity;
- One vertically integrated electricity operator

## Review of cost accounting systems

In parallel, the Director General had a review of Guernsey Electricity's cost accounting systems undertaken to assist in preparation for regulatory implementation in 2002, examining such issues as how the three core businesses of generation, conveyance and supply might be **separately accounted** for and to provide an overview of whether the existing systems would be adequate to meet the new regulatory regime. This formed the foundation of significant further work in 2002.



# Annual Report: 2001

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## **The Bailiwick of Guernsey :**

- Comprises the islands of Guernsey, Alderney, Sark, Herm, Jethou, Brechou and Lihou;
- Total population is 62,101
- Alderney's population is 2,294
- Guernsey's population (including Herm and Jethou) is 59,807
- Alderney and Sark have separate parliaments to Guernsey

## Inclusion and Equity

The Bailiwick of Guernsey comprises a number of islands including Guernsey, Alderney, Sark, Herm, Jethou, Brecqhou and Lihou. Both **Alderney** and **Sark** have their own independent parliaments separate from the Guernsey States of Deliberation.

*“In performing the duty imposed by this section the States and the Director General shall have equal regard to the interests of the residents of all islands of the Bailiwick”*

*- The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001*

Alderney and Sark come within the regulatory regime for telecommunications and postal services and the Law explicitly recognises the inclusion of these islands. Both islands operate separate electricity arrangements from those in Guernsey.

The development of the regulatory regime for post and telecommunications during 2001 affected Alderney and Sark as significantly as Guernsey. For example the States Directions to the Director General in relation to the provision of universal telecommunications services and universal postal services in the Bailiwick of Guernsey extend to Alderney and Sark as well as the other islands of the Bailiwick.

Therefore the people living on Alderney and Sark are entitled to receive the same basic services as the people in Guernsey at the same **uniform affordable price**. This protects the interests of users in those islands in relation to core telephony services and postal deliveries.

The licence provisions developed by the Director General also encompass Alderney and Sark and therefore any provisions protecting consumers and the market in general extend to Alderney and Sark and provide protection there also.





# Financial Statements and Report for the Period 1 October 2001 to 31 December 2001 for the Public Regulation Fund

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## Foreword to the Accounts

Regulation of Utilities requires a keen understanding of all the facets of industry and an ability to combine expertise in law, engineering, accounting, audit, economics and business analysis to develop innovative and practical solutions to facilitate market development. In a rapidly changing environment these challenges are particularly acute.

The Director General of Utility Regulation operated in a shadow capacity until 1st October 2001 when the Office was established in Law. In October the Director General set up the Public Utilities Regulation Fund and in September 2001, the fees payable by the utility companies in the first financial year of the OUR were published in **Document OUR 01/11**.

On 1st October the Office was staffed by the Director General, a Regulatory Adviser and an Office Manager. During October 2001 two new regulatory experts joined, and the Office also used consulting expertise in this period to carry out its functions.

From its inception, the OUR has collected licence fees for the range of licensing activities under its auspices, and has also been provided with some grant aid from the Board of Industry as sanctioned by the States of Guernsey.



# Public Utilities Regulation Fund

## Fund Information

**DIRECTOR GENERAL**

Ms R Finn

**OFFICE ADDRESS:**

Suites B1 & B2  
Hirzel Court  
St Peter Port  
Guernsey  
GY1 2NH

**AUDITORS:**

Chandlers Limited  
Chartered Accountants  
Anson Court  
La Route des Camps  
St Martin's  
Guernsey



# Public Utilities Regulation Fund

## Report of the Director General for the period 1 October 2001 to 31 December 2001

I have pleasure in submitting the annual report and audited financial statements for the Public Utilities Regulation Fund for the period ended 31st December 2001.

### Financial Year

The accounting period consists of the three months from 1st October to the 31st December 2001.

### Principal Activities

The Office of the Director General of Utility Regulation was established on 1st October 2001 in accordance with the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. Various transactions before that date were carried out under the auspices of the Board of Industry as a shadow Office was established. The functions of the Office relate to the regulation and licensing of the telecommunications, and postal industry and preparation for the regulation and licensing of the electricity industry in 2002. The Office is funded by income received from the regulated industries and grant aid from the Board of Industry.

### Statement of The Director General's Responsibilities

The Director General is responsible for preparing the financial statements for each financial year which give a true and fair view of the state of affairs of and of the income or deficit of the Public Utilities Regulation Fund for that period. In preparing those financial statements, the Director General is required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Fund will continue in operation.

The Director General is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Fund and to ensure that the financial statements comply with applicable accounting standards. The Director General is also responsible for safeguarding the assets of the Fund and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

### Auditors and Accounts

In accordance with Section 13 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the Director General shall keep all proper accounts and records in relation to those accounts and shall prepare in respect of each year a statement of account giving a true and fair view of the state of affairs of the Office of the Director General.

The Law also requires the Director General to have the accounts audited annually by auditors appointed with the approval of the Board of Industry. The Director General, with the approval of the Board of Industry, has appointed Chandlers Limited as the auditors to the Public Utilities Regulation Fund.

The audited accounts shall be submitted to the Board of Industry which shall in turn submit them together with the auditors report thereon to the States with the Director General's annual report.

The auditors have indicated their willingness to continue in Office.

**Regina Finn**  
**Director General of Utility Regulation**  
**29th August 2002**



# Public Utilities Regulation Fund

## Report of the Independent Auditors to the Members of Public Utilities Regulation Fund

We have audited the financial statements of Public Utilities Regulation Fund for the period ended 31 December 2001 on pages thirty five to thirty eight. These financial statements have been prepared under the historical cost convention and the accounting policies set out therein.

### Respective responsibilities of Director General and auditors

As described on page thirty three the Fund's Director General is responsible for the preparation of financial statements in accordance with applicable law and United Kingdom Accounting Standards.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and United Kingdom Auditing Standards.

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. We also report to you if, in our opinion, the Report of the Director General is not consistent with the financial statements, if the Fund has not kept proper accounting records, if we have not received all the information and explanations we require for our audit, or if information specified by law regarding the Director General's remuneration and transactions with the Fund is not disclosed.

We read the Report of the Director General and consider the implications for our report if we become aware of any apparent misstatements within it.

### Basis of audit opinion

We conducted our audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Director General in the preparation of the financial statements, and of whether the accounting policies are appropriate to the funds circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

### Opinion

In the opinion the financial statements give a true and fair view of the state of the Fund's affairs as at 31 December 2001 and of its surplus for the period then ended and have been properly prepared in accordance with the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.

Chandlers Limited  
Chartered Accountants  
Anson Court  
La Route des Camps  
St Martin's  
Guernsey

Dated: 30th August 2002

# Public Utilities Regulation Fund

## Income and Expenditure Account for the Period 1 October 2001 to 31 December 2001

	Notes	£
<b>INCOME</b>		
License fees		105,000
Grants		62,008
Bank interest		98
		<hr/>
		167,106
<b>EXPENDITURE</b>		101,989
		<hr/>
		65,117
<b>TRANSFER TO CONTINGENCY RESERVE</b>		(65,117)
		<hr/>
<b>NET OPERATING SURPLUS FOR THE PERIOD</b>	2	-
		<hr/>

The notes form part of these financial statements

# Public Utilities Regulation Fund

## Balance Sheet 31 December 2001

	Notes	£	£
<b>FIXED ASSETS:</b>			
Tangible assets	4		52,301
<b>CURRENT ASSETS:</b>			
Debtors	5	6,953	
Cash at Bank		21,801	
		<hr/>	
		28,754	
<b>CREDITORS:</b> Amounts falling due within one year	6	15,938	
		<hr/>	
<b>NET CURRENT ASSETS:</b>			12,816
			<hr/>
<b>TOTAL ASSETS LESS CURRENT LIABILITIES:</b>			65,117
			<hr/>
<b>RESERVES:</b>			
Contingency reserve			65,117
			<hr/>
			65,117
			<hr/>

Regina Finn  
Director General of Utility Regulation

Approved on 29th August 2002

The notes form part of these financial statements

# Public Utilities Regulation Fund

## Notes to the Financial Statements for the period 1 October 2001 to 31 December 2001

### 1. ACCOUNTING POLICIES

#### Accounting convention

The financial statements have been prepared under the historical cost convention and in accordance with the Financial Reporting Standard for Smaller Entities (effective March 2000).

#### Income

Income represents net invoiced licensed fees and grants received from the States of Guernsey.

#### Tangible fixed assets

Depreciation is provided at the following annual rates in order to write off each asset over its estimated useful life.

Office Equipment	-20% on cost
Fixtures and Fittings	-20% on cost
Computer Equipment	-20% on cost

### 2. OPERATING SURPLUS

The operating surplus is stated after charging:

	£
Depreciation—owned assets	2,753
Auditors remuneration	1,500

### 3. TAXATION

Under Section 12 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 the fund is exempt from Guernsey Income Tax.

### 4. TANGIBLE FIXED ASSETS

	Office Equipment	Fixtures and Fittings	Computer Equipment	Totals
	£	£	£	£
<b>COST:</b>				
Additions	<u>32,961</u>	<u>3,065</u>	<u>19,028</u>	<u>55,054</u>
At 31 December 2001	<u>32,961</u>	<u>3,065</u>	<u>19,028</u>	<u>55,054</u>
<b>DEPRECIATION:</b>				
Charge for Period	<u>1,708</u>	<u>94</u>	<u>951</u>	<u>2,753</u>
At 31 December 2001	<u>1,708</u>	<u>94</u>	<u>951</u>	<u>2,753</u>
<b>NET BOOK VALUE:</b>				
At 31 December 2001	<u>31,253</u>	<u>2,971</u>	<u>18,077</u>	<u>52,301</u>

# Public Utilities Regulation Fund

## 5. DEBTORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

Grants	£ <u>6,953</u>
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## 6. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

Bank Loans and Overdrafts	£ 5,062
Trade creditors	1,798
Accruals	<u>9,078</u>
	<u>15,938</u>

## Annex A: States Directions:Telecommunications

In accordance with Section 3 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the States of Guernsey may, by Resolution, give to the Director General, directions regarding specified matters.

At its meetings in March and September 2001, the States resolved to give a number of such Directions to the Director general and in accordance with Section 8 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, these are reproduced below:

### **Telecommunications: Scope of Universal Service Obligation (USO)**

All users in the Bailiwick shall have available to them the services set out below at the quality specified, independently of geographical location and, in the light of local and national conditions, at an affordable price:

#### **Access at Fixed Locations:**

- all reasonable requests for connection to the public telephone network at a fixed location and for access to publicly available telephone services at a fixed location shall be met by at least one operator;
- the connection provided shall be capable of allowing users to make and receive local, national and international telephone calls, facsimile communications and data communications, at data rates that are sufficient to permit Internet access;

#### **Directory enquiry services and directories:**

- at least one subscriber directory covering all subscribers of direct public telephone service providers shall be made available to users and shall be updated regularly and at least once a year;
- at least one telephone directory enquiry service covering all listed subscribers' numbers shall be made available to all users, including users of public pay telephones;

#### **Public Pay telephones:**

- public pay telephones shall be provided to meet the reasonable needs of users in terms of the geographical coverage, the number of telephones and the quality of services.

## Annex A: States Directions: Telecommunications

### **Special measures for disabled users and users with special needs:**

- these provisions shall also apply to disabled users and users with special social needs, and specific measures may be taken by the Regulator to ensure this.

### **Telecommunications: Identity of First Licensee with USO**

The Director General of Utility Regulation shall issue the first licence to contain a telecommunications Universal Service Obligation to Guernsey Telecoms Limited, the company established to take over the functions of the States Telecommunications Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.

### **Telecommunications Special or Exclusive Rights**

The provision of telecommunications networks and services in the Bailiwick of Guernsey shall be opened up to competition at the earliest possible time consistent with the Regulation of Utilities (Bailiwick of Guernsey) Law 2001.

In accordance with section 3(1)(b) of that Law, the States directs the Regulator to decide the duration of any exclusive or special privilege granted to any licensee in relation to the provision of telecommunications networks and/or services with a view to ensuring that competition is introduced into all parts of the market at the earliest possible time.

The Regulator may decide on different terms for privileges granted in different markets or segments of the market. In any case, the States directs that the term of any such rights shall not exceed three years at most from the date of this Direction.



## Annex A: States Directions: Post

### Post: Universal Service Obligation

The following universal postal service shall be provided by at least one licensee throughout the Bailiwick of Guernsey at uniform and affordable prices, except in circumstances or geographical conditions that the Director General of Utility Regulation agrees are exceptional:

- One collection from access points on six days each week;
- One delivery of letter mail to the home or premises of every natural or legal person in the Bailiwick (or other appropriate installations if agreed by the Director General of Utility Regulation) on six days each week including all working days;
- Collections shall be for all postal items up to a weight of 20Kg;
- Deliveries on a minimum of five working days shall be for all postal items up to a weight of 20Kg;
- Services for registered and insured mail.

In providing these services, the licensee shall ensure that the density of access points and contact points shall take account of the needs of users.

“access point” shall include any post boxes or other facility provided by the Licensee for the purpose of receiving postal items for onward transmission in connection with the provision of this universal postal service.

### Post: Identity of First Licensee with a USO

The Director General of Utility Regulation shall issue the first licence to contain a postal Universal Service Obligation to Guernsey Post Limited, the company established to take over the functions of the States Post Office Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.



## Annex A: States Directions: Post

### Post: Special or Exclusive Rights

The Board, after consultation with the Shadow Regulator, recommends the States

- (a) to pass a Resolution giving a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Post Office Limited the exclusive right to provide postal services in the Bailiwick to the extent that such exclusive right is necessary to ensure the maintenance of the universal postal service specified by States' directions under section 3(1)(c) of that Law; and
- (b) to request the Director General to review and revise the award of exclusive rights from time to time with a view to opening up the Bailiwick postal services market to competition, provided that any such opening up does not prejudice the continued provision of the universal postal service.

## Annex A: States Directions: Electricity



### **Electricity: Universal Service Obligation (“Public Supply Obligation”)**

The States did not make any Directions in relation to a Universal Service Obligation in the electricity markets, as it noted that the provisions of the Electricity Law adequately protected the interests of users by ensure a Public Supply Obligation would be in place.

### **Electricity: Identity of First Licensee with a USO**

The Director General of Utility Regulation shall issue the first licence to contain an electricity Universal Service Obligation to Guernsey Electricity Limited, once that company is established to take over the functions of the States Electricity Board.

### **Electricity: Special or Exclusive Rights**

The Board, after consultation with the Shadow Regulator, recommends the States to pass a Resolution giving a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited an exclusive electricity conveyance licence in respect of the conveyance of electricity in Guernsey for a period of 10 years once that company has been formed.

The Board makes no recommendation to the States to pass a Resolution giving a direction to the Director General in relation to the period of exclusivity of any generation licence to be granted under the Electricity (Guernsey) Law, 2001.

The Board, after consultation with the Shadow Regulator, recommends the States to pass a Resolution giving a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited (once that company has been formed) an exclusive electricity supply licence in respect of the supply of electricity in Guernsey for a period of one year. The Board also recommends the States to request the Director General to investigate the impact of the introduction of competition into the electricity supply market further and to provide a recommendation and advice to the Board of Industry on the introduction of such competition.



## Annual Report 2001

## Annex B: Documents Published in 2001

- 01/01** Regulation in Guernsey - the OUR Approach and Consultation Procedures
- 01/02** Telecommunications in Guernsey - Licensing Framework for a Competitive Market - Consultation Paper
- 01/03** Telecommunications Licence Conditions - Consultation Paper
  - Appendix 1 Telecommunications Licence—Explanatory note on conditions
  - Appendix 2 (Fixed Telecoms Licence Conditions)
  - Appendix 3 (Mobile Telecoms Licence conditions)
- 01/04** Proposed Decisions under the Telecommunications (Bailiwick of Guernsey) Law, 2001 - Consultation Paper
- 01/05** Postal Licence Conditions - Consultation Paper
  - Appendix 1 Postal Licence—Explanatory note on conditions
  - Appendix 2 (Postal Licence Conditions)
- 01/06** Proposed Decisions under the Post Office (Bailiwick of Guernsey) Law, 2001 - Consultation Paper
- 01/07** Electricity in Guernsey: Licensing Framework - Consultation Paper
- 01/08** Electricity Licence Conditions - Consultation Paper
  - Appendix 1 Electricity Licences—Explanatory note on conditions
  - Appendix 2 (Electricity Licence Conditions)
- 01/09** Proposed Decisions under the Electricity (Guernsey Law), 2001 - Consultation Paper
- 01/10** Consultations on Regulation of Electricity in Guernsey - Notice of Extension of Deadlines
- 01/11** Licence Fees for Telecommunications, Postal and Electricity Licences - Information Notice
- 01/12** Telecommunications in Guernsey - Licensing Framework for a Competitive Market; Report on the Consultation Paper
- 01/13** Telecommunications Licence Conditions; Decision Notice and Report on the Consultation Paper
- 01/14** Decisions under the Telecommunications (Bailiwick of Guernsey)



## Annex B: Documents Published in 2001

Law 2001 - Decision Notice and Report on the Consultation

- 01/15** Postal Licence Terms and Conditions - Decision Notice and Report on the Consultation Paper
- 01/16** Decisions under The Post Office (Bailiwick of Guernsey) Law 2001 - Decision Notice and Report on the Consultation Paper
- 01/17** Reserved Postal Services in Guernsey - Order under Section 9(1) of the Post Office (Bailiwick of Guernsey) Law 2001, Information Document
- 01/18** Fixed Telecommunications Licence Conditions
- 01/19** Mobile Telecommunications Licence Conditions
- 01/20** Postal Licence Conditions
- 01/21** Information Note for Holders of Licences granted by the States Telecommunications Board
- 01/22** Proposals for the Price Regulation of Fixed Telecommunications Services - Consultation Paper
- 01/23** Telecommunications Licence Terms and Conditions - Consultation Paper
  - Appendix 1 Telecommunications Licence—Explanatory note on conditions
  - Appendix 2 (Telecommunications Licence Conditions)
- 01/24** Guernsey Telecoms Reference Offer for Interconnection and Access - Invitation to Comment
- 01/25** Mobile Telephony Licensing in Guernsey

## APPENDIX VI

### STATES TRAFFIC COMMITTEE

#### PUBLIC TRANSPORT STRATEGY REVIEW

The President  
States of Guernsey  
Bailiffs Chambers  
Royal Court House  
St Peter Port  
GUERNSEY

23 October, 2002

Dear Sir,

#### PUBLIC TRANSPORT STRATEGY REVIEW

I have enclosed a report from the Committee that sets out the results of the first twelve months of operation of its public transport strategy and the ongoing work being carried out to develop and improve the bus services.

I should be grateful if you could arrange for this to be published as Appendix in the Billet d'État in November.

Yours faithfully,

P. MELLOR,

President,  
States Traffic Committee.

**STATES TRAFFIC COMMITTEE****PUBLIC TRANSPORT STRATEGY REVIEW****1. INTRODUCTION**

In February, 2001, the Committee presented a report to the States that put forward its vision for the future delivery of the Island's scheduled and school bus services (Billet d'État III of 2001).

The policy letter put forward recommendations for new funding arrangements and a new contract with Island Coachways for the delivery of the scheduled services. Other key recommendations included the introduction of cheap bus fares and the purchase by the States of a brand new bus fleet to be leased to Island Coachways.

The principal objectives set out by the Committee in putting forward its proposals were to encourage significantly greater usage of public transport, provide systems of public transport of which the Island could be proud and thereby facilitate a quality alternative form of travel to the motor car.

The States subsequently approved the recommendations contained in the policy letter, subject to an amendment regarding the level at which bus fares would be set. It also agreed that the first twelve months of the new funding arrangements for the scheduled services should be considered as a trial period and directed the Committee to report back to the States within six months of the end of that trial period on its effectiveness.

The purpose of this report is therefore to set out the successful results of the first twelve months of the new funding arrangements. It is also intended to provide an update on the other areas of ongoing work being carried out by the Committee to develop and improve the bus services in line with the above objectives.

**2. BACKGROUND**

The Committee's report in 2001 followed the closure in 2000 of Guernseybus, which for the previous five years had been operating the Island's scheduled and schools bus services alongside Island Coachways. Both companies were operating under contracts with the Committee that the States had agreed should be put in place in 1995. A review of these arrangements was set out fully in the above report.

In brief, the main lessons and conclusions arising from the above were that both companies had had to cope with severe under funding of the scheduled services over the five years and had cross-subsidised them from the income and profits made by their school bus and private hire services. However, this was something that the Committee and the States had specifically intended to prevent when the new contracts were agreed in 1995.

Over the same period, passenger numbers had been falling during the summer months, which was attributed to fewer visitors to the Island using the services. With falling passenger numbers and inadequate funding, the only choice was to reduce service levels and increase fares. Insufficient funding was available to invest in replacement buses. Eventually, during the final two years of the arrangements, passenger numbers during the winter months also began



to fall. Local bus users were being deterred from using the services, principally because of the higher fares, reduced service frequencies and inadequate quality of service.

The Committee's main conclusion was that, without new, attractive and comfortable vehicles, low bus fares and increased service frequencies, all of which would require additional public funding, the Island's scheduled and schools bus services would continue to decline and deteriorate.

### 3. RECENT DEVELOPMENTS

#### **New Route Network**

The Committee set out details of the new route network in its report in 2001. This was introduced in March of that year. It facilitated a more efficient system that required fewer buses and incurred less operating costs, whilst maintaining and improving service levels.

Some of the key features of the new network included:

- the restoration of regular service frequencies across the network;
- the significant enhancement of service frequencies on key corridors (such as Town to St. Sampsons, Vazon, Grandes Rocques, St. Martins);
- the introduction of cross-Island journeys to make transport by bus quicker, easier and more attractive;
- the provision of attractive tourist options;
- the provision of many new links, particularly across St. Peter Port;
- the reintroduction of winter Sunday services;
- easy passenger interchange in St. Peter Port and elsewhere.

The new network has been and continues to be the subject of on-going review in consultation with both Island Coachways and passengers in order to further enhance service levels and frequencies. Enhancements to the timetables were made in July and October of last year and again in May of this year. These have involved: the introduction of new services during the morning and evening commuter periods, as well as throughout the day; the introduction of two new routes; and, a major extension to an existing route. Some additional costs have been incurred in making these enhancements (see section 6). Numerous other more minor amendments to the routes and schedules have also been made in response to specific requests.

This process of making enhancements to the bus network and schedules will, of course, continue on an on-going basis. The Committee remains committed to further improvements in services at commuter periods and also to the introduction of evening services. However, one of the main constraints in doing so is the availability of drivers. Nevertheless, Island Coachways has made progress in recruiting drivers and, as it continues to do so, so the Committee can then proceed with further enhancements to the services. The Committee will be working with Island Coachways on an ongoing basis to address driver availability issues.

#### **Bus Fares**

After considering the Committee's report in 2001, the States agreed that a cheap flat bus fare of 50 pence should be introduced for all journeys. It also decided that the Committee could introduce "system tickets" with an average minimum fare of no less than 20p and that free travel for Old Aged Pensioners should be maintained (the latter had previously been agreed separately by the States following consideration of the 2001 budget report).

With the approval of the Advisory and Finance Committee, new funding arrangements for the scheduled bus services operated for the Committee by Island Coachways were put in place with effect from 1st July, 2001. This enabled the introduction of the cheap flat fare of 50 pence per journey.

Once the flat fare had been settled in, the Committee proceeded with the introduction of a new range of system tickets with effect from 1st October, 2001. These were made up of the following:

- Ten Journey Vouchers for £3.50 (average fare of 35p per journey);
- Thirty Journey Vouchers for £7.50 (average fare of 25p per journey);
- Fifty Journey Vouchers for £10.00 (average fare of 20p per journey).

The aforementioned enhancements to the timetables in July and October last year were specifically timed to coincide with the introduction of these two initiatives and the additional passengers that were carried as a result.

#### **Contract with Island Coachways**

The Committee has, with the agreement of the Advisory and Finance Committee, now concluded a contract with Island Coachways for the delivery of the scheduled bus services and the lease by the Company of the new bus fleet being purchased by the States.

The contract is for a five year period, ending on 30th June, 2006. However, it does have a “break” clause that would allow either party to terminate it after a three year period. The Committee can also unilaterally vary the terms of the contract after two years to take account of any decision that the States might make to change the level of funding being provided to support the bus services.

The contract operates on an “open book” basis. There are incentives built into the contract to encourage Island Coachways to hold or reduce its costs, as well as to increase its income. The contract places specific obligations on Island Coachways to ensure that the contractual arrangements are open and transparent, including:

- all costs and income attributable to the contract must be separately identified from other areas of the Company’s operations;
- monthly financial information on all of the Company’s operations must be provided to the Committee;
- annual audited accounts in respect of the scheduled bus services and for all of the Company’s other business operations must be provided to the Committee;
- all accounts and invoices must be made available on demand to the Committee for scrutiny.

The contract also allows the Committee to audit any of the Company’s financial information and/or its financial procedures and systems.

#### 4. PASSENGER RESPONSE

The previous decline in bus usage has now been stopped in its tracks and reversed. Passenger numbers have increased significantly, not only during the summer months, but also during the winter, when the services are predominantly used by local residents. Significant increases are being recorded throughout the year and at all times of the day, including peak commuter periods.

**The reversal in the decline has been such that, for the first year of the new funding arrangements, the total number of passenger journeys has exceeded 1 million. This is the first time for several years that the 1 million mark has been passed.**

The key findings from an analysis of the passenger figures are as follows:

- during the year commencing 1st July, 2001, total passenger numbers rose by 188,012 to 1,048,112 an increase of just under 22%;
- the strongest growth in passenger numbers has taken place during the winter months, when the services are mainly used by residents. Passenger numbers between October and March increased by between 25% and 35% each month;
- significant growth has also been recorded during the summer months. Passenger numbers have increased by 17% at these times;
- passenger figures during commuter periods throughout the year have increased by 21%. Again, strong growth has been during the winter months, when monthly increases of between 23% and 40% have been recorded;
- 23% of all passengers are travelling using the system tickets introduced by the Committee. Of these, about half are using the 20p vouchers;
- the number of journeys being made by Old Aged Pensioners during the year commencing 1st July, 2001, increased by 65,575, an increase of 51%.

The Committee believes that, by any reasonable standards, the increases being recorded are highly significant. They reflect the success of the new route network and vindicate the policy of reducing fares, both of which are key elements of a strategy to provide a quality form of alternative transport to the motor car. The Committee is satisfied that, with the introduction of further enhancements to the services and the introduction of a new bus fleet later this year (see below), these successes will not only be maintained, but further increased.

Further analyses of the bus passenger journey figures can be found in Appendix 1.

#### 5. RELATED MATTERS

##### **Current Bus Fleet**

Before its closure in November, 2001, the Committee agreed to purchase from Guernseybus a sufficient number of its vehicles to maintain Island wide scheduled and school bus services and thus minimise any disruption to the travelling public. The vehicles purchased included 23 buses.

At that time, the Committee incurred expenditure in undertaking vehicle inspections, a significant backlog of maintenance work, replacement of spare parts and essential repairs to

ensure the vehicles it had acquired were safe and roadworthy. Most of the vehicles required additional expenditure in repairing faults and undertaking necessary maintenance and repair work.

The completion of the maintenance and repair work was essential, particularly having regard to the Committee's statutory obligation to provide a sufficient and safe bus service for the Island. Equally importantly, the work has extended the operational life of the vehicles concerned by between two and three years. This has provided the necessary breathing space to implement the new public transport strategy to be put in place and purchase the brand new fleet of buses.

The buses concerned are now being leased to Island Coachways, which is directly responsible for their maintenance under its contract with the Committee. However, the Committee has, with the Company's full agreement, organised for independent monthly inspections to be carried out of the maintenance work being undertaken by Island Coachways. In this manner, the States can be sure that its assets are being properly maintained and safeguarded.

### **New Bus Fleet**

The Committee has now sought tenders for the supply of a new fleet of buses. After comprehensive post tender negotiations and, with the approval of the Advisory and Finance Committee, it has placed an order with East Lancashire Coachbuilders Ltd. for 33 'Myllennium' single deck buses on a Dennis Dart chassis, at a total cost of £3,130,000.

The first five of these vehicles are due to be delivered in November / December this year with the remaining 28 due to arrive in March / April, 2003.

The new buses will represent the next significant step in providing the Island with a bus service of which it can be justifiably proud. With their modern design and appearance and levels of passenger comfort that will be unprecedented for Guernsey, they will further increase the numbers of passengers travelling on the services.

Key features of the new bus fleet include the following:

- they will be environmentally friendly, with engines that meet the latest European emission standards. They will also be fitted with Continuous Regenerating Traps, which reduces carbon monoxide, sulphate, nitrous oxide and particulate matter by a further 90%;
- they will be "low floor" with kneeling suspension, making it much easier to get on and off the bus. Air suspension will provide a much more comfortable ride;
- capacity will be increased, with room for 35 seated and 12 standing passengers. This will help to overcome some of the overcrowding problems that are now regularly experienced at peak periods. Upgraded seats are being provided for further additional comfort;
- the buses will be disabled friendly and will include a wheelchair ramp and space. These will also be helpful for push chairs etc;
- a heating and ventilation system throughout the passenger saloon will help to maintain passenger comfort at different temperatures throughout the year.

A full detailed specification of the new buses is attached as Appendix 2.

**Bus Priority Systems**

Earlier this year, the States accepted the Committee's proposals for the replacement of the Island's traffic signals. These proposals included provision for the introduction of a bus priority system, whereby the new signals will be able to detect an approaching bus and switch to a green phase. This will help to reduce bus journey times and improve service reliability, both of which are important factors in attracting passengers to the services.

**Improved park-and-ride facilities**

As part of the redevelopment of the Osmond Priaulx playing fields later this year the existing park-and-ride facilities at Footes Lane will be considerably enhanced. These enhancements will include a dedicated parking area with additional spaces that will be controlled to ensure only park-and-ride users are able to park there. In addition, a bus shelter for waiting passengers will also be installed. The Committee would like to place on record its appreciation to the Recreation Committee for the assistance it has and continues to provide in making this facility available.

**Marketing initiatives**

Since the launch of the new scheduled bus service network in March, 2001, the Committee has undertaken a number of marketing initiatives to raise the profile of the bus services including an 'on bus' poster campaign, radio advertising, publicity material for visitors, and various promotional days which have been linked, for example, to Christmas late night shopping in St. Peter Port, Easter walks and Father's Day. In addition, the Committee continues to produce the more routine promotional material, including timetable booklets and display board posters, which have also been further improved and developed.

**Network infrastructure**

The Committee is making improvements to the scheduled bus services network infrastructure on an ongoing basis.

A recent initiative includes the launch of an interactive 'bus travel planner' on the Internet which is linked to the Committee's own website. The planner consists of three sections which include: 'traditional' bus timetables; a map of the Island which shows when the next bus is due in 'real time' at selected stops; and, a journey planner which enables the user to enter his starting and finishing point for his or her intended journey, as well as the preferred time of travel. The system then provides details on the bus services available and any connections that need to be made.

The Committee is proceeding with plans to install an additional twenty bus shelters at various locations around the Island to provide improved waiting facilities for passengers. This will bring the total number in place to thirty five. It has recently applied to the Island Development Committee for permission to install shelters at a number of new sites. It also intends to continue its ongoing programme of improving passenger information at bus stops by, where possible, replacing bus stops painted in the roads with signs on poles, as well as providing more timetable display boards.

## 6. FUNDING ARRANGEMENTS

Prior to the Committee's previous report to the States, an average annual subsidy was being paid to the two bus companies of approximately £375,000. In addition to this, the States had approved, in January 2001, an additional subsidy of up to £200,000 per annum for the provision of free travel on the scheduled services for Old Aged Pensioners.

At the time that the Committee presented its report to the States in March 2001, the States was therefore already making available almost £600,000 per annum for a bus service which was on the decline, with passenger numbers falling and routes and services being cut.

Under its new proposals, the Committee had been advised that the anticipated subsidy required would be in the region of £1,025,000 (it should be noted that this figure did not make allowance for the additional cost of the service enhancements that it was subsequently decided to make on three separate occasions during the first year of the contract). However, given the uncertainty over the likely effects of the proposed new strategy and, in particular, the associated low fares, the Committee believed at the time that a contingency sum would need to be made available of around £200,000 per annum.

The Committee had been acutely aware for some years that the scheduled bus services were significantly under-funded and that neither bus company was making any profit from delivering those services. In negotiating an entirely new contract with Island Coachways, the Committee has been mindful of the need to safeguard taxpayers' money, whilst at the same time providing a reasonable level of return for Island Coachways. Appropriate checks and balances are in place which enables the Committee to scrutinise every pound that is spent on delivering scheduled bus services.

The total subsidy requirement for Year I of the contract (1st July 2001 - 30th June 2002) was just under £1,200,000. At the same time, the Committee has been able to identify savings in its budget for schools bus services from improved efficiency, whilst expanding the number of schools bus services which can be made available. The Committee would, at this time, wish to note its disappointment that, despite an offer to introduce and fund a school bus service for St Martins School, the Education Council and the school have declined to take up this opportunity.

With regard to Years 2 to 5 of the new contract, the Committee anticipates a continuing net subsidy requirement in the region of between £1.1m and £1.2m per annum in current terms. This level of subsidy, together with the savings that the Committee is able to make from its schools bus budget, will provide some flexibility to enable the Committee to introduce further enhancements to existing services, as well as the introduction of limited evening services.

However, the Committee's ambitions for the future of public transport in Guernsey do not end there. Indeed, the Committee intends to considerably expand the existing level of scheduled services and routes that are available, but recognises that these improvements will be subject to a large extent to the availability of bus drivers. Assuming this hurdle can be overcome, then it is the Committee's intention to request an increased level of subsidy to enable those improvements to be delivered.

## **7. FUTURE DEVELOPMENTS**

### **Schools Bus Services**

The Committee continues to recognise the opportunities that encouraging greater use of the schools and scheduled bus services by school children would offer to reduce and manage traffic congestion during peak periods.

In the short term, now that the new scheduled bus services have had an opportunity to settle down, the Committee intends to work increasingly proactively with the Education Council and the Island's schools to see if greater usage of the existing schools and scheduled bus services by school children can be encouraged. It will also, wherever possible, continue introducing targeted improvements to the existing services.

In the longer term, the Committee intends to give further, very careful consideration to the introduction of free school bus travel for all school children, regardless of where they live. Whilst this does remain a long-term objective for the Committee, it must be recognised that there will be significant resource issues associated with such a proposal. Previous initial assessments of such an idea by the Committee have suggested that at least fifteen additional buses and drivers would be required at peak periods to manage the increased demand, operating costs would increase by around £150,000 per annum and additional capital expenditure on vehicles in the region of £1 million would be required.

### **Park-and-Ride**

The Committee believes that the provision of additional and improved park-and-ride facilities should not be ruled out as one of the tools that are used to tackle the impact of traffic in the centre of St Peter Port. The Committee will be undertaking a comprehensive review of the opportunities for improving the Island's park-and-ride infrastructure and introducing new and additional sites and services.

## **8. CONCLUSIONS**

The Committee believes that the first year of operation of the new arrangements for the scheduled bus services has been extremely successful. The trial period has clearly demonstrated that the public will respond very positively to the provision of a high quality bus service. Passenger numbers have increased dramatically with the introduction of improved service levels and cheap fares. Further increases will be achieved when the new fleet of buses comes into service towards the end of this year. With the new fleet of buses in place, Guernsey will have a public transport system in place of which it can be justifiably proud.

Against the above background, the Committee is satisfied that the principal objectives that it set out in putting forward the public transport strategy for the Island have been achieved.



## APPENDIX 1

**SCHEDULED BUS SERVICES MONTHLY COMPARISONS –**  
**2000/2001 WITH 2001/2002 (JULY – JUNE)**

**TOTAL PASSENGERS**

<b>MONTH</b>	<b>TOTAL PAX 2000/2001</b>	<b>TOTAL PAX 2001/2002</b>	<b>DIFFERENCE</b>	<b>% DIFFERENCE</b>
JULY	111878	124384	12506	11.18
AUGUST	125504	147341	21837	17.40
SEPTEMBER	109992	121914	11922	10.84
OCTOBER	57350	75645	18295	31.90
NOVEMBER	44207	59824	15617	35.33
DECEMBER	45874	60505	14631	31.89
JANUARY	38442	51398	12956	33.70
FEBRUARY	37993	50562	12569	33.08
MARCH	46855	58519	11664	24.89
APRIL	55047	73713	18666	33.91
MAY	88261	106766	18505	20.97
JUNE	98697	117541	18844	19.09
<b>TOTALS</b>	<b>860100</b>	<b>1048112</b>	<b>188012</b>	
<b>TOTALS TO DATE (JULY TO JUNE)</b>	<b>860100</b>	<b>1048112</b>	<b>188012</b>	<b>21.86</b>

**OAP PASSENGERS**

<b>MONTH</b>	<b>TOTAL OAP 2000/2001</b>	<b>TOTAL OAP 2001/2002</b>	<b>DIFFERENCE</b>	<b>% DIFFERENCE</b>
JULY	10766	16290	5524	51.31
AUGUST	11620	17738	6118	52.65
SEPTEMBER	9905	15924	6019	60.77
OCTOBER	8692	16145	7453	85.75
NOVEMBER	8623	15115	6492	75.29
DECEMBER	8948	15073	6125	68.45
JANUARY	8988	13038	4050	45.06
FEBRUARY	9644	11986	2342	24.28
MARCH	10354	11892	1538	14.85
APRIL	11247	14581	3334	29.64
MAY	13449	21118	7669	57.02
JUNE	14338	23249	8911	62.15
<b>TOTALS</b>	<b>126574</b>	<b>192149</b>	<b>65575</b>	
<b>TOTALS TO DATE (JULY TO JUNE)</b>	<b>126574</b>	<b>192149</b>	<b>65575</b>	<b>51.81</b>

Difficulties were experienced with the ticketing machines for short periods in 2001 and 2002. The passenger figures have been adjusted to take account of this.



**VOUCHER PASSENGERS (including Scholars)**

<b>MONTH</b>	<b>TOTAL VOU 2000/2001</b>	<b>TOTAL VOU 2001/2002</b>	<b>DIFFERENCE</b>	<b>% DIFFERENCE</b>
JULY	18274	28318	10044	54.96
AUGUST	18877	33249	14372	76.13
SEPTEMBER	26364	31539	5175	19.63
OCTOBER	11357	17704	6347	55.89
NOVEMBER	10001	13993	3992	39.92
DECEMBER	10378	11172	794	7.65
JANUARY	9565	11951	2386	24.95
FEBRUARY	7269	8963	1694	23.30
MARCH	8374	13737	5363	64.04
APRIL	9187	19985	10798	117.54
MAY	17725	28944	11219	63.29
JUNE	21056	31865	10809	51.33
<b>TOTALS</b>	<b>168427</b>	<b>251420</b>	<b>82993</b>	
<b>TOTALS TO DATE (JULY TO JUNE)</b>	<b>168427</b>	<b>251420</b>	<b>82993</b>	<b>49.28</b>

**COMMUTER PASSENGERS (MON TO SAT BETWEEN 06.30 to 09.30 and 16.30 to 19.00)**

<b>MONTH</b>	<b>TOTAL COM 2000/2001</b>	<b>TOTAL COM 2001/2002</b>	<b>DIFFERENCE</b>	<b>% DIFFERENCE</b>
JULY	30295	31954	1659	5.48
AUGUST	34541	37946	3405	9.86
SEPTEMBER	29396	31000	1604	5.46
OCTOBER	18318	23174	4856	26.51
NOVEMBER	16658	20548	3890	23.35
DECEMBER	17286	18880	1594	9.22
JANUARY	14467	18678	4211	29.11
FEBRUARY	12628	15575	2947	23.34
MARCH	13538	19039	5501	40.63
APRIL	16009	22847	6838	42.71
MAY	24569	33086	8517	34.67
JUNE	26951	36426	9475	35.16
<b>TOTALS</b>	<b>254656</b>	<b>309153</b>	<b>54497</b>	
<b>TOTALS TO DATE (JULY TO JUNE)</b>	<b>254656</b>	<b>309153</b>	<b>54497</b>	<b>21.40</b>

Difficulties were experienced with the ticketing machines for short periods in 2001 and 2002. The passenger figures have been adjusted to take account of this.

**SCHEDULED BUS SERVICES****AVERAGE NUMBER OF PASSENGERS PER MONTH****LOW SEASON (OCTOBER TO MARCH)**

<b>1996/1997</b>	<b>1997/1998</b>	<b>1998/1999</b>	<b>1999/2000</b>	<b>2000/2001</b>	<b>2001/2002</b>
55,705	58,007	54,466	48,032	45,120	59,408

**HIGH SEASON (APRIL TO SEPTEMBER)**

<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
131,872	119,291	105,465	100,908	105,940	114,710

**PRE 1st JULY, 2001 (introduction of 50 pence flat fare)**

July to September, 2000	115,791
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**POST 1st JULY, 2001 (introduction of 50 pence flat fare)**

July to September, 2001	131,213
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**PRE 1st OCTOBER, 2001 (introduction of 20p/35p multi journey voucher)**

October to December, 2000	49,144
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**POST 1st OCTOBER, 2001 (introduction of 20p/35p multi journey voucher)**

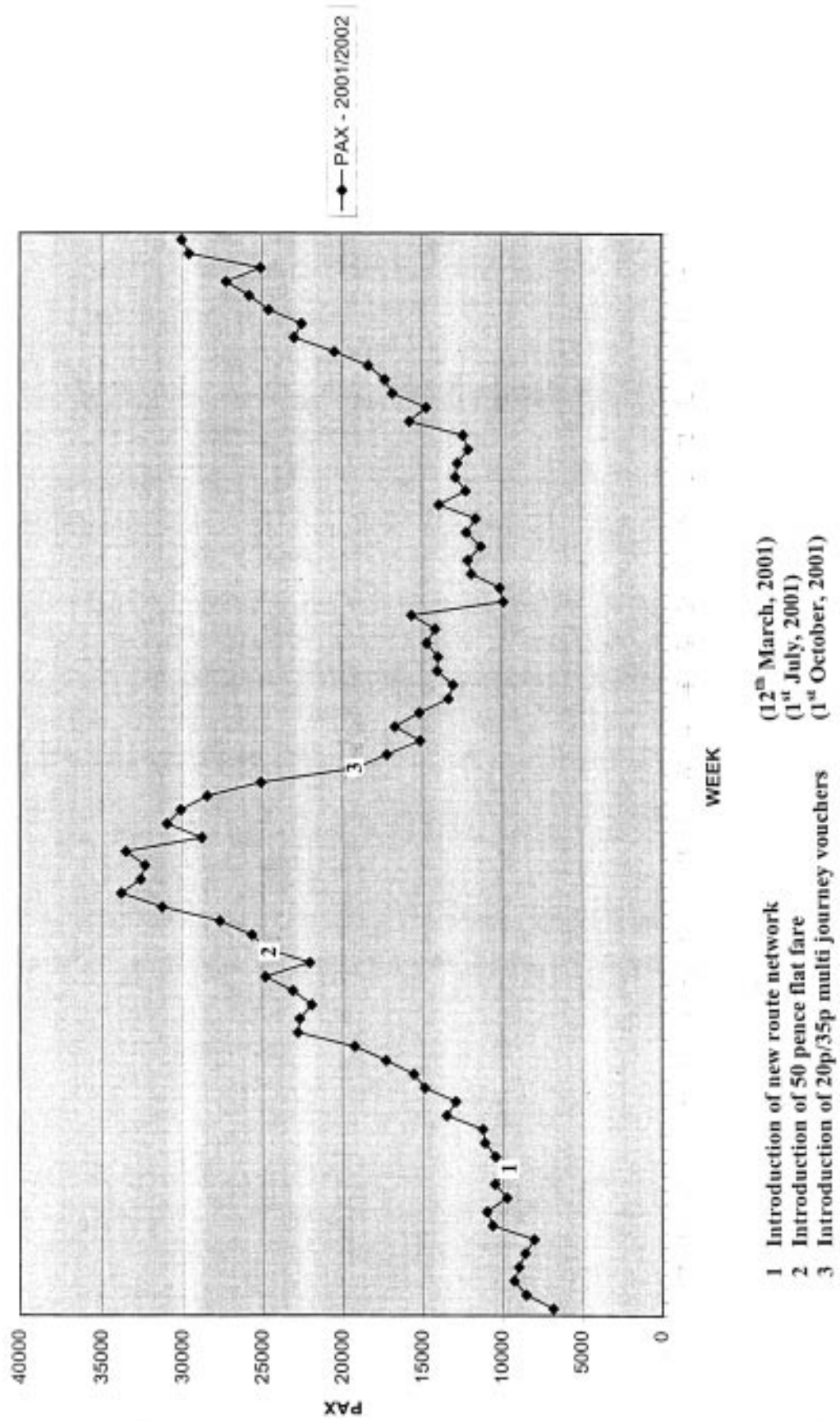
October to December, 2001	65,325
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**AVERAGE SUBSIDY PER PASSENGER PER ANNUM**

<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
£0.40p	£0.35p	£0.40p	£0.68p

Note: The above figures take account of both the capital and revenue subsidies that were payable to both Island Coachways and Guernseybus under the previous contractual arrangements.

SCHEDULED BUS SERVICES PASSENGERS (JANUARY, 2001, TO JUNE, 2002)



**APPENDIX 2****NEW BUS FLEET - SPECIFICATION****East Lancashire Coachbuilders 'Myllennium' bus body built on a Dennis Chassis****Engine & Driveline**

- Cummins Euro 3 engine - the latest generation of 'environmentally friendly' diesel engines which meets Euro 3 emission standards
- Continuous regenerating trap - reduces main pollutants in exhaust fumes by an additional 90%
- Allison 2000 automatic gearbox
- Telma Focal 5750 retarder - limits the speed the bus can travel

**Main Design Features**

- Aluminium body
- Super Low Floor - one small entrance step
- Air suspension with kneeling capability - lowers step height even further / provides more comfortable ride
- New modern livery

**Capacity**

- 35 passenger seats
- Minimum of 12 standees

**Additional Passenger Comfort & Convenience Features**

- Electronic destination display - high visibility which can be seen in all weathers and at night
- Upgraded seats
- Wheelchair ramp - fully disabled access vehicle

Wheelchair space - useful for prams & buggies too

Luggage space

Full heating / cooling system - for passenger comfort all year round

Hopper windows - for additional ventilation

Tinted glass - helps keep interior cool in summer months

Full set of handrails

Full set of bell pushes

‘Bus stopping’ sign

### **Security**

5 cameras per vehicle C.C.T.V. system on first 5 vehicles - option to retro-fit to remaining vehicles at a later date

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 27TH DAY OF NOVEMBER, 2002

The States resolved as follows concerning Billet d'Etat No. XXIII  
dated 8th November, 2002

**PROJET DE LOI**

entitled

**THE MERCHANT SHIPPING (BAILIWICK OF GUERNSEY) LAW, 2002**

- I. To approve the Projet de Loi entitled "The Merchant Shipping (Bailiwick of Guernsey) Law, 2002", and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**PROJET DE LOI**

entitled

**THE MATRIMONIAL CAUSES (AMENDMENT) (GUERNSEY) LAW, 2002**

- II. To approve the Projet de Loi entitled "The Matrimonial Causes (Amendment) (Guernsey) Law, 2002", and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**PROJET DE LOI**

entitled

**THE ATTENDANCE AND INVALID CARE ALLOWANCES (GUERNSEY)  
(AMENDMENT) LAW, 2002**

- III. To approve the Projet de Loi entitled "The Attendance and Invalid Care Allowances (Guernsey) (Amendment) Law, 2002", and to authorise the Bailiff to present a most humble Petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE ATTENDANCE AND INVALID CARE ALLOWANCES ORDINANCE, 2002**

- IV. To approve the draft Ordinance entitled "The Attendance and Invalid Care Allowances Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE HEALTH SERVICE (BENEFIT) (AMENDMENT) ORDINANCE, 2002**

- V. To approve the draft Ordinance entitled "The Health Service (Benefit) (Amendment) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE FAMILY ALLOWANCES ORDINANCE, 2002**

- VI. To approve the draft Ordinance entitled "The Family Allowances Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE SUPPLEMENTARY BENEFIT (IMPLEMENTATION) (AMENDMENT)  
ORDINANCE, 2002**

- VII. To approve the draft Ordinance entitled "The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE CENTRAL OUTDOOR ASSISTANCE BOARD REGULATIONS  
(AMENDMENT) ORDINANCE, 2002**

- VIII. To approve the draft Ordinance entitled "The Central Outdoor Assistance Board Regulations (Amendment) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE HEALTH SERVICE (OPHTHALMIC BENEFIT) (REPEAL)  
ORDINANCE, 2002**

- IX. To approve the draft Ordinance entitled "The Health Service (Ophthalmic Benefit) (Repeal) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE HEALTH SERVICE (BENEFIT) (ANNUAL GRANT) ORDINANCE, 2002**

- X. To approve the draft Ordinance entitled "The Health Service (Benefit) (Annual Grant) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE HEALTH SERVICE (ALDERNEY HOSPITAL BENEFIT)  
(AMENDMENT) ORDINANCE, 2002**

- XI. To approve the draft Ordinance entitled "The Health Service (Alderney Hospital Benefit) (Amendment) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE HEALTH SERVICE (SPECIALIST MEDICAL BENEFIT) (AMENDMENT)  
ORDINANCE, 2002**

- XII. To approve the draft Ordinance entitled "The Health Service (Specialist Medical Benefit) (Amendment) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE DRIVING LICENCES (GUERNSEY) (AMENDMENT) ORDINANCE, 2002**

- XIII. To approve the draft Ordinance entitled "The Driving Licences (Guernsey) (Amendment) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

## **THE FIREARMS (AMENDMENT) ORDINANCE, 2002**

- XIV. To approve the draft Ordinance entitles "The Firearms (Amendment) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

## **STATES COMMITTEE FOR HOME AFFAIRS**

### **AMENDMENT OF THE PRISON ADMINISTRATION (GUERNSEY) ORDINANCE, 1998**

- XV. After consideration of the Report dated the 15th October, 2002, of the States Committee for Home Affairs:-
1. That the Prison Administration (Guernsey) Ordinance, 1998, shall be amended to provide:-
    - (a) that serious offences against discipline shall be dealt with by a Lieutenant Bailiff or Assistant Magistrate appointed by the Bailiff as an adjudicator; and
    - (b) that in such cases, the prisoner shall be entitled to legal representation.
  2. To approve the draft Ordinance entitled "The Prison Administration (Amendment) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

## **STATES PUBLIC ASSISTANCE AUTHORITY**

### **ST. SAMPSON'S PAROCHIAL OUTDOOR ASSISTANCE BOARD**

#### **NEW MEMBER**

- XVI. To elect Mr. Stephen Park as a member of the St. Sampson's Parochial Outdoor Assistance Board to complete the unexpired portion of the term of office of Mr. J. E. Foster, who has resigned as a member of that Board, namely, to the 31st May, 2003.

## **STATES BOARD OF ADMINISTRATION**

### **ST. PETER PORT HARBOUR – NO. 1 RO-RO LINKSPAN REFURBISHMENT**

- XVII. After consideration of the Report dated the 11th October, 2002, of the States Board of Administration:-
1. To approve the refurbishment of No. 1 Ro-Ro linkspan in St. Peter Port Harbour at a total cost, inclusive of a sum of £30,000 as a contingency sum, not exceeding £306,364.00
  2. To authorise the States Board of Administration to accept the tender in the sum of £276,364.00 submitted by Howlett Marine and Industrial Services Limited for the above work.



3. To vote the States Board of Administration a credit of £306,364.00 to cover the cost of the above project, which sum shall be charged as capital expenditure in the accounts of the Harbour of St. Peter Port.

## **STATES BOARD OF HEALTH**

### **NEW MENTAL HEALTH LEGISLATION**

XVIII. After consideration of the Report dated the 25th October, 2002, of the States Board of Health:-

1. To approve that new Mental Health legislation be enacted for the Bailiwick on the lines set out in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

## **STATES BOARD OF INDUSTRY**

### **BAILIWICK INTELLECTUAL PROPERTY LEGISLATION AND ECONOMIC OPPORTUNITIES IN A KNOWLEDGE ECONOMY**

XIX. After consideration of the Report dated the 21st October, 2002, of the States Board of Industry:-

1. To approve the introduction of a modern regime of intellectual property legislation along the lines described in that Report.
2. To agree to compliance with the standards required by the Trade Related aspects of Intellectual Property Rights (TRIPS) under the World Trade Organisation Agreement.
3. To note the intention to extend the various international conventions, treaties and agreements as set out in that Report relating to intellectual property, subject to the normal scrutiny procedures for such agreements applied by the States Advisory and Finance Committee.
4. To agree in principle that a Bailiwick Intellectual Property Office shall be created under the auspices of the States Board of Industry.
5. To direct the States Board of Industry to submit to the States plans for the creation of a Bailiwick Intellectual Property Office including a business plan, prior to the introduction of the proposed Intellectual Property legislation.
6. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

## **STATES CHILDREN BOARD AND STATES HOUSING AUTHORITY**

### **HOUSING PROJECTS FOR YOUNG PEOPLE**

XX. After consideration of the joint Report dated the 25th October, 2002, of the States Children Board and States Housing Authority:-

1. To authorise the States Housing Authority to make an annual revenue grant to NCH to provide for the continuation and the establishment of those housing projects for young people specified in that Report.
2. To authorise the States Advisory and Finance Committee to increase the 2003 revenue expenditure budget of the States Housing Authority by a sum of up to £300,000, in respect of the grant payable to NCH.
3. To direct the States Advisory and Finance Committee to take account of the annual grant to the NCH when recommending to the States revenue allocations for the States Housing Authority in 2004 and subsequent years.
4. That administration of the property known as 17 Havilland Street be transferred to the States Housing Authority for use as training bed-sit accommodation for young people as set out in that Report, on such terms and conditions as may be laid down by the States Housing Authority and approved by the States Advisory and Finance Committee.
5. To authorise the States Housing Authority to seek and accept, subject to the approval of the States Advisory and Finance Committee, a tender for the renovation of 17 Havilland Street for use as training bed-sit accommodation for young people, chargeable to the capital allocation of the States Housing Authority as referred to in paragraph 10.4 of that Report.
6. That the States Rent Rebate Scheme be extended to apply to any person accommodated in the training bed-sit accommodation provided as part of the housing projects for young people, the rents for such accommodation being set at levels comparable to equivalent accommodation provided for States' tenants.
7. That contracts be drawn up between the States Housing Authority, States Children Board and NCH to formalise the arrangements set out in that Report, including service level agreements identifying the services to be provided, the standards to be met, and the outcomes to be achieved.

**K. H. TOUGH**  
**HER MAJESTY'S GREFFIER**

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 28TH DAY OF NOVEMBER, 2002

(Meeting adjourned from the 27th November, 2002)

The States resolved as follows concerning Billet d'Etat No. XXIII  
dated 8th November, 2002

**STATES PROCEDURES AND CONSTITUTION COMMITTEE**

**THE ELECTORAL ROLL**

XXI. After consideration of the Report dated the 14th October, 2002, of the States Procedures and Constitution Committee:-

1. (1) By a majority of more than two-thirds of the members present and voting, that the Reform (Guernsey) Law, 1948, as amended, be further amended to provide that:
  - (a) in article 34 (1), the States be enabled to specify, by Ordinance, the year and period of the year in which electoral roll forms shall be delivered to each household;
  - (b) applications for enrolment on the electoral roll, notifications of errors and notification changes of name or address shall be accepted by the Registrar-General of Electors at any time;
  - (c) the States be enabled to specify, by Ordinance, the period during which the electoral roll, or a section of it, shall be closed for the purpose of holding an election or by-election of People's Deputies and Parish Representatives and that the States Procedures and Constitution Committee be enabled to specify, by Regulation, the period during which the electoral roll, or a section of it, shall be closed for the purpose of holding an election or by-election to a parochial office;
  - (d) the States Procedures and Constitution Committee be enabled to specify, by Regulation, when, where and by what means the electoral roll shall be published for inspection;
  - (e) the validity of the current electoral roll, and any subsequent electoral roll, be extended until such time as the States, by Ordinance, direct that it be renewed;
  - (f) the States Procedures and Constitution Committee be enabled to specify, by Regulation, which persons or categories of persons shall be entitled to obtain copies

of the electoral roll, by what means (whether electronic or otherwise) they may be supplied, and the charge to be made for supplying the copies.

(2) TO NEGATIVE the propositions that:

(a) a person be enabled to vote, notwithstanding that his name is not on the electoral roll, providing that he shall certify to the Returning Officer that he had made application for enrolment, that he remains eligible to vote and that he has not and will not vote or attempt to vote at another polling station;

(b) a false declaration made under (a) above shall constitute a criminal offence.

2. To note the States Procedures and Constitution Committee's intention to pursue ways of making registration on the electoral roll easier, particularly for new voters.
- 2A. To direct the States Procedures and Constitution Committee to return to the States not later than June 2003 with detailed proposals for increasing the percentage of eligible persons whose names are inscribed on the Electoral Roll.
3. By a majority of more than two-thirds of the members present and voting, to direct the preparation of such legislation as may be necessary to give effect to their above decisions.

## **REQUÊTE**

### **BUILD YOUR OWN EQUITY SHARING HOMES FOR FAMILIES SCHEME**

XXII. After consideration of the Requête dated the 14th September, 2002, signed by Deputy R. C. Berry, OBE, and seven other Members of the States:-

1. To instruct the States Housing Authority to consider a self build scheme as one element of its broader initiatives on equity sharing and affordable housing, and report back to the States as soon as possible, having regard to the following principles.
2. That the rules for such self build, equity sharing and affordable housing schemes should be far less restrictive than those set out in the requête.
3. That there should be no land zoned specifically for self build homes, but instead the Island Development Committee should pursue policies which will release sufficient development land to facilitate all equity sharing and affordable housing schemes approved by the States.

S. M. D. ROSS

HER MAJESTY'S DEPUTY GREFFIER