



# BILLET D'ÉTAT

XXII  
2002

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WEDNESDAY, 30th OCTOBER, 2002

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# ***BILLET D'ÉTAT***

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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 30th OCTOBER, 2002,** immediately after the Meeting already convened for that day..

**PROJET DE LOI**

ENTITLED

**THE HEALTH SERVICE (BENEFIT) (GUERNSEY) (AMENDMENT) LAW, 2002**

The States are asked to decide:–

I.–Whether they are of opinion to approve the Projet de Loi entitled “The Health Service (Benefit) (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 SOCIAL INSURANCE (RATES OF CONTRIBUTIONS AND BENEFITS, ETC.)  
ORDINANCE, 2002**

The States are asked to decide:–

II.–Whether they are of opinion to approve the draft Ordinance entitled “The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2002”, and to direct that the same shall have effect as an Ordinance of the States.

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**THE INSURANCE BUSINESS (BAILIWICK OF GUERNSEY) LAW, 2002  
(COMMENCEMENT) ORDINANCE, 2002**

The States are asked to decide:–

III.–Whether they are of opinion to approve the draft Ordinance entitled “The Insurance Business (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2002”, and to direct that the same shall have effect as an Ordinance of the States.

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**THE INSURANCE MANAGERS AND INSURANCE INTERMEDIARIES (BAILIWICK  
OF GUERNSEY) LAW, 2002 (COMMENCEMENT) ORDINANCE, 2002**

The States are asked to decide:–

IV.–Whether they are of opinion to approve the draft Ordinance entitled “The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2002”, and to direct that the same shall have effect as an Ordinance of the States.

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**THE FINANCIAL SERVICES COMMISSION (BAILIWICK OF GUERNSEY)  
(AMENDMENT) LAW, 2002 (COMMENCEMENT) ORDINANCE, 2002**

The States are asked to decide:–

V.–Whether they are of opinion to approve the draft Ordinance entitled “The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002 (Commencement) Ordinance, 2002”, and to direct that the same shall have effect as an Ordinance of the States.

**ELIZABETH COLLEGE BOARD OF DIRECTORS**

**NEW MEMBER**

The States are asked:–

VI.–To elect a member of the Elizabeth College Board of Directors to complete the unexpired portion of the term of office of Advocate J. N. van Leuven, who has resigned as a member of that Board, namely, to the 5th January, 2004.

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**STATES LIBERATION CELEBRATIONS COMMITTEE**

**NEW MEMBER**

The States are asked:–

VII.–To elect a member of the States Liberation Celebrations Committee, who need not be a sitting member of the States, to complete the unexpired portion of the term of office of Mr. M. S. Lainé, who has resigned as a member of that Committee, namely, to the 31st May, 2003.

**STATES ADVISORY AND FINANCE COMMITTEE****CHANGES TO COMPANY LAW**

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

25th September, 2002.

Dear Sir,

**CHANGES TO COMPANY LAW**

The Guernsey Financial Services Commission has written to the States Advisory and Finance Committee in the following terms.

“The Commission proposes that the Companies (Guernsey) Law, 1994 should be further amended in two important respects. Both suggestions have been discussed with the Guernsey International Business Association and are made in light of international expectations.

1. The Commission suggests that the maximum period for which directors and officers of a company may be disqualified from acting as such and from participating in, or being concerned in, the management, formation or promotion of any Guernsey company or any specified Guernsey company should be increased from five to fifteen years. The Commission also suggests that the same maximum period of disqualification should apply to any renewal of a disqualification.

A maximum disqualification period of 15 years is the same limit as in the United Kingdom, Jersey and Isle of Man. The report arising from the United Kingdom Home Office review of financial regulation in the Crown Dependencies also suggested the period of maximum disqualification should be raised to 15 years.

2. The Commission proposes that it should be advised of, and empowered to require information as to, the ongoing ownership and ultimate beneficial ownership information (such as name, address, date of birth, occupation, nationality, residence and domicile of ultimate beneficial owners) of a company, together with such other information as the Commission may reasonably require. It is also proposed there should be appropriate penalties for non-compliance, including, ultimately, winding up.

There is an existing requirement exercised by the Commission under the Control of Borrowing Ordinance, 1959 as amended under which to advise the Commission must be advised of the proposed ownership of a company prior to its formation. In addition, information on changes of ownership with regard to tax exempt companies (but not tax resident companies) is already provided to the Commission under the Income Tax (Exempt Bodies) Ordinance, 1989. However, the provision outlined above should now be included in company law and extended to all Guernsey companies.

The provision of beneficial ownership information to the Commission will assist the Bailiwick to satisfy recent thinking by the OECD on the misuse of corporate vehicles, in particular the OECD's 2001 report on the misuse of corporate vehicles for illicit purposes."

The Committee has considered the Commission's proposals and recommends the States to agree that amendments to the Companies (Guernsey) Law, 1994 should be prepared as detailed in the Commission's report.

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,

L. C. MORGAN,

President,  
States Advisory and Finance Committee

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The States are asked to decide:—

VIII.—Whether, after consideration of the Report dated the 26th September, 2002, of the States Advisory and Finance Committee, they are of opinion:—

1. That the Companies (Guernsey) Law, 1994 shall be amended as detailed in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

## STATES ADVISORY AND FINANCE COMMITTEE

### AMENDMENTS TO REGULATORY LEGISLATION

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

26th September, 2002.

Dear Sir,

### AMENDMENTS TO REGULATORY LEGISLATION

The Guernsey Financial Services Commission has written to the States Advisory and Finance Committee in the following terms.

“The Guernsey Financial Services Commission commenced operations in 1988. At that time there were four main pieces of regulatory legislation, the Protection of Depositors, Companies and Prevention of Fraud (Bailiwick of Guernsey) Law, 1969, the Protection of Depositors (Bailiwick of Guernsey) Ordinance, 1971, the Insurance Business (Guernsey) Law, 1986 and the Protection of Investors (Bailiwick of Guernsey) Law, 1987. Since 1988 the regulatory framework in Guernsey – both in terms of legislation and the Commission’s practices – has changed significantly. A substantial reason for this change is that international regulatory standards have evolved dramatically during the last fourteen years. There are a number of bodies responsible for establishing international regulatory standards. Of particular interest to Guernsey are:-

- the Basel Committee on Banking Supervision, which was established in 1975. The Basel Committee sets global standards for banking supervision;
- the International Organization of Securities Commissions (“IOSCO”), which was established in 1983. IOSCO sets global standards for securities regulation;
- the Financial Action Task Force on Money Laundering (“FATF”), which was established in 1989. FATF sets global standards for countering money laundering and terrorist financing; and
- the International Association of Insurance Supervisors (“IAIS”), which was established in 1993. The IAIS sets global standards for insurance supervision.

The Group of Seven countries (G7) have also issued standards on regulatory co-operation and the sharing of information by regulatory bodies. In addition, the International Monetary Fund has promoted standards on trusts, trust service providers, companies and company service providers and on the regulation of other financial services businesses through the evaluations it has conducted of jurisdictions around the world.

The Commission is committed to meeting the standards espoused by the above bodies.

The Commission has taken account of the standards of the IAIS in asking the Committee to request the States to approve the Insurance Business (Bailiwick of Guernsey) Law, 2002 and the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 (“the Insurance Laws”), which were approved by the States of Guernsey in July and subsequently by the States of Alderney and the Chief Pleas of Sark. The Commission considers that other changes to legislation are required to take account of the developing standards of the other international regulatory bodies referred to above. The Commission also considers that other legislative changes are needed:–

- to modernise some of the provisions of the older financial services regulatory laws by incorporating provisions from the more recent regulatory legislation;
- to help the international regulatory and law enforcement communities in their interpretation of Guernsey regulatory laws by translating general powers already possessed by the Commission into stand-alone provisions;
- to enhance the operation of the Commission;
- to facilitate the provision of relevant information to Bailiwick gambling regulators; and
- to clarify financial services businesses’ relationships with foreign regulatory bodies.

These changes are specified below.

#### **CHANGES TO THE BANKING SUPERVISION (BAILIWICK OF GUERNSEY) LAW, 1994 (“the Banking Law”)**

1. Currently, information may only be obtained, and the powers of the Commission in relation to the obtaining of information, can only be exercised with the prior written authority of not less than two ordinary members of the Commission. This requirement does not appear in the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000 (“the Fiduciary Law”) or the Insurance Laws and the Commission suggests it should be repealed.
2. The Banking Law permits the Commission to disclose information in certain circumstances. There are, however, some differences between the disclosure of information provisions in the Banking Law compared with the more recent regulatory legislation. The Commission therefore proposes that:–
  - the definition of “officer of police” should include customs and excise officers and other officials within the Bailiwick.
  - the provision under the Banking Law under which information can be transmitted with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings should be widened as in the Insurance Laws to allow the disclosure of information:
    - (i) for the purposes of the investigation, prevention or detection of crime; or
    - (ii) with a view to the instigation of or otherwise for the purposes of any criminal proceedings.
  - the provision under the Banking Law under which information may be disclosed in the interests of depositors should be extended to include reference to clients in order to maximise client protection.



- the word “supervisory” before the word “functions” should be deleted as many supervisory authorities in other jurisdictions have been granted investigatory and other functions. Currently, information may be disclosed only for the purpose of enabling or assisting a relevant supervisory authority in a country outside the Bailiwick to exercise its supervisory functions.

With regard to information held by an overseas authority, it is also suggested the Banking Law should be amended to allow the Commission to transmit information provided to it by an overseas authority under any of the gateways available to the Commission with the consent of the authority which has provided the information.

3. There is a need for the Banking Law to define the word “bank” explicitly. It is suggested that a bank should be defined as a person holding a licence under the Banking Law.
4. The Banking Law defines at schedule 3 minimum criteria for licensing. The Commission suggests this should be amended to be, where appropriate, consistent with the Fiduciary Law and state that the Commission may set its own additional criteria for licensing based on the general criteria set out in schedule 3 to the Banking Law.
5. It is proposed an absolute minimum amount of capital for a Guernsey incorporated bank should be set at £1million.
6. The Commission suggests it should be empowered to produce Codes of Practice for Guernsey banks (a similar provision exists under the Fiduciary Law). These Codes of Practice will, in themselves, greatly assist the Bailiwick’s full compliance with the Basel Committee on Banking Supervision’s Core Principles for Effective Banking Supervision. As under the Fiduciary Law, failure to comply with the Codes of Practice should not result in a person being liable to any proceedings but the Commission may take account of the provisions of a Code and the contravention thereof in determining what manner to exercise its powers under the Banking Law (or secondary legislation made under that Law). Contravention of Codes may also be used as evidence, where relevant, in legal proceedings under any Law.
7. The Commission proposes the Banking Law should require banks to review on an annual basis:
  - their individual loans, asset classification and any loss provisioning. The review should include both on and off balance sheet exposures;
  - whether their control systems to submit accurate returns to the Commission on time are effective, whether any inaccuracies in the returns have been corrected and whether corrections have been provided to the Commission;
  - whether their financial record keeping systems and the data systems they provide are reliable;
  - whether any activity has been entered into where none of the directors has a sound knowledge of the activity;
  - the responsibilities of the board of directors with respect to corporate governance principles and whether there has been effective control by the board over every aspect of risk management; and
  - their control environment.

The Commission should be apprised of any shortcomings identified by the bank and of the proposed steps to be taken to remedy such shortcomings.

8. It is proposed the Banking Law should require banks to notify the Commission that a person has become or has ceased to be a director of the bank. However, as is the case with the Fiduciary Law, the Commission suggests it should also be given the explicit legal authority to require changes in the composition of a bank's board, management and personnel, if it considers relevant individuals not to be fit and proper to hold their posts. The Commission also proposes it should have the explicit power to suspend or bar individuals from working for a bank in the Bailiwick if it considers the relevant individuals not to be fit and proper. Appropriate checks and balances should also be included in the Banking Law, including the ability of the relevant individuals to make representations to the Commission and to appeal to the court.
9. The Commission considers that Guernsey incorporated banks should have to obtain permission from it in order to expand their activities by establishing operations outside the Bailiwick.

**CHANGES TO THE REGULATION OF FIDUCIARIES, ADMINISTRATION  
BUSINESSES AND COMPANY DIRECTORS, ETC. (BAILIWICK OF GUERNSEY)  
LAW, 2000**

10. The Fiduciary Law requires fiduciaries to notify the Commission that a person has become or has ceased to be a director of a fiduciary. The Commission also proposes it should have the explicit power to suspend or bar individuals from working for a fiduciary in the Bailiwick if it considers relevant individuals not to be fit and proper. Appropriate checks and balances should also be included in the Fiduciary Law, including the ability of the relevant individuals to make representations to the Commission and appeal to the court.
11. With regard to information held by an overseas authority, it is suggested the Fiduciary Law should be amended to allow the Commission to transmit information provided to it by an overseas authority under any of the gateways available to the Commission with the consent of the authority which has provided the information.
12. The Commission considers that Guernsey incorporated fiduciaries should have to obtain permission from it in order to expand their activities by establishing operations outside the Bailiwick.

**CHANGES TO THE PROTECTION OF INVESTORS (BAILIWICK OF GUERNSEY)  
LAW, 1987**

13. Currently, no provisions on confidentiality, disclosure of information or use of information supplied to the Commission by overseas authorities are contained in the Protection of Investors Law. The Commission considers the law should be amended to include such provisions. For the purposes of consistency these should be made as close as possible to those in the Fiduciary Law (as proposed to be amended by paragraph 11. above)

In addition, as in the Fiduciary Law, the Commission suggests the Protection of Investors Law should enable it to require controllers, managers or partners of applicants for licences to provide information to, and attend before, the Commission. Similarly, a new offence should be created where persons (without reasonable excuse or for other valid reasons such as legal professional privilege) do not provide the Commission with the information required.

14. It is suggested the Protection of Investors Law should contain provisions based on those in the Fiduciary Law in connection with notifying the Commission where any person has ceased to be a director, controller, partner or manager of a licence. As in the Fiduciary Law, it would be an offence where a licensee failed to give the appropriate notice. In addition, the Commission proposes it should also be given explicit legal authority that, if it considers relevant individuals not to be fit and proper to hold their posts, to require changes in the composition of a licensee's board, management and personnel. The Commission also proposes it should have the explicit power to suspend or bar individuals from working for a licensee in the Bailiwick if it considers the relevant individuals not to be fit and proper. Appropriate checks and balances should also be included in the Protection of Investors Law, including the ability of the relevant individuals to make representations to the Commission and appeal to the court.
15. As in the Fiduciary Law, the Commission considers the Protection of Investors Law should provide the Commission with the power to object to new controllers, require licensees to provide information in connection with new controllers and create an offence where a person becomes a controller despite the Commission having objected to such position.

In addition, as with the other regulatory legislation administered by the Commission, the breach of a condition imposed by the Commission should be an offence.

16. The Commission considers that Guernsey incorporated licensees under the Protection of Investors Law should have to obtain permission from it in order to expand their activities by establishing operations outside the Bailiwick.
17. The Commission believes the existing provision in the Protection of Investors Law requiring changes to rules and regulations to be published in such manner as the Commission considers best calculated to bring them to the attention of persons likely to be affected by them should be widened to state that such changes should also be routinely notified to the public.
18. The Protection of Investors Law should include a provision for the Commission to make publicly available educational information in connection with controlled investments.

#### **CHANGES TO THE FINANCIAL SERVICES COMMISSION (BAILIWICK OF GUERNSEY) LAW, 1987 ("the Commission Law")**

19. It is proposed the Commission Law should require that the Director General of the Commission be appointed for a minimum term to be determined by the Commissioners. This proposal arises from one of the requirements of the Basel Committee on Banking Supervision's Core Principles for Effective Banking Supervision.
20. It is appropriate that the Commission Law should specify reasons why the Director General of the Commission may be removed from office. The reasons for removal should be as similar as possible to those pertaining to the removal of the Chairman (namely, where he had been declared insolvent, is incapacitated by physical or mental illness or is otherwise unable or unfit to discharge his duties). It would also be appropriate for the Commission Law to require that the reasons must be publicly disclosed if the Chairman or the Director General of the Commission were to be removed from office.
21. The Commission suggests the Commission Law should require the Commission to take such steps as it considers appropriate to safeguard its members, officers and servants and former members, officers and servants from bearing legal costs arising from the discharge or exercise of their functions or duties on behalf of the Commission or a Committee of the States.

22. It would be appropriate to amend the Commission Law so that the Commission (after consultation with the Advisory and Finance Committee in Guernsey, the Policy and Finance Committee in Alderney and the General Purposes and Finance Committee in Sark), rather than the Advisory and Finance Committee, should be able to make Regulations providing for payment to the Commission of fees for the exercise of any general function of the Commission.
23. The Commission suggests the Commission Law should permit the Commission to disclose information to any gaming or gambling supervisory body in the Bailiwick to assist such body to carry out its functions.
24. It would be helpful for the Commission Law to state explicitly that, when information is disclosed to a third party, the Commission should be able to reserve the right to impose any conditions regarding the safeguard of confidentiality and further dissemination of information as it considers appropriate.
25. With specific reference to information disclosed to supervisors in other jurisdictions, the Commission considers it should be required to take reasonable steps to ensure that any confidential information released to another supervisor will be treated as confidential by the receiving party unless:
  - consent is given by the Commission to transfer the information to a third party; or
  - consent is given by the person(s) to whom the information refers to transfer the information to a third party; or
  - the information is required to be transferred in order to comply with the order of a court having relevant jurisdiction; and
  - subject to the foregoing, the information will be used only for supervisory purposes, unless the Commission agrees otherwise.
26. The Commission proposes the Commission Law should also provide that it may obtain information from any entity in possession of a licence, consent, registration, permission or authorisation or any applicant for a licence, consent, registration, permission or authorisation for the purpose of enabling or assisting, in the interests of the public or otherwise, any authority which appears to the Commission to exercise in a place outside the Bailiwick any functions corresponding to those of the Commission. In this regard:
  - (a) following a request for information or other assistance by an authority as described above, the Commission should be able to investigate (by appointing external inspectors or otherwise) any matter;
  - (b) in deciding whether or not to exercise its investigative power, which may encompass the gathering of information or the conduct of interviews, the Commission may take into account any matter and in particular:
    - (i) whether in the country or territory of the authority concerned, corresponding assistance would be given to the Commission;
    - (ii) whether the case concerns the breach of the law or other requirement which has no close parallel in the Bailiwick or involves the assertion of a jurisdiction not recognised by the Bailiwick;

- (iii) the seriousness of the case and its importance to persons in the Bailiwick;
  - (iv) whether it is otherwise appropriate in the public interest to give the assistance sought; and
  - (v) whether disclosure of information to, or co-operation with, the authority concerned would, in the Commission's view, lead to undue injury, damages or harm to the persons involved;
- (c) the Commission may decide that it will not exercise its investigative power unless the authority concerned undertakes to make such contribution towards costs as the Commission considers appropriate;
- (d) where the Commission has undertaken to investigate a matter in response to a request from the authority concerned, it may itself permit, or direct an appointed inspector to permit, a representative of that authority to attend, and take part in, any interview conducted for the purposes of the investigation;
- (e) any direction under (d) above should not be given unless the Commission is satisfied that any information obtained by the authority concerned as a result of an interview will be subject to appropriate safeguards;
- (f) the Commission must prepare a statement of its policy with respect to the conduct of interviews in relation to which a direction under (d) above has been given.

The foregoing is based on the UK's Financial Services and Market Act 2000, albeit that an additional safeguard (see paragraph 26(b)(v) above) would be incorporated in the Commission Law compared with the UK legislation.

27. With regard to information held by an overseas authority, it is suggested the Commission Law should be amended to allow the Commission to transmit information provided to it by an overseas authority under any of the gateways available to the Commission with the consent of the authority which has provided the information.
28. In undertaking its functions the Commission receives a great deal of information from third parties. Often, this information is received as a result of due diligence checks conducted by the Commission on persons applying for a licence, consent, registration, permission or authorisation by the Commission. The Commission proposes that this mechanism should be specified in the Commission Law. The Commission Law should state that the Commission and the Commission's members, staff and agents, in undertaking their functions (including discharging or exercising functions or duties on behalf of a committee of the States) may seek information from third parties and take account of information received when undertaking their functions.
29. The Commission is also mindful of the need for supervisory/regulatory organisations which regulate financial groups with subsidiaries or branches in foreign jurisdictions to satisfy themselves in connection with the fitness and properness of those subsidiaries or branches. Indeed, during the fourteen years since the Commission has been established, representatives of a number of foreign supervisory institutions have paid visits to Guernsey financial institutions. There are customary law provisions whereby institutions may provide

information to foreign supervisors but the Commission considers that it would be appropriate for the Commission Law and helpful to financial institutions if the law were to contain provisions explicitly stating that institutions do not break any requirement of confidentiality if they provide to a foreign supervisory body information which is relevant to that body's regulatory functions.

30. It is suggested the Commission Law should state that any regulations, rules, codes of conduct, guidance notes and policies on the granting, amendment or cancellation of licences, consents, registrations, permissions or authorisations issued by the Commission should be disclosed to the public.
31. The regulatory laws require regulated institutions to give notice in writing to the Commission of changes in auditors. The Commission considers it also needs powers to revoke the appointment of the auditors of a person holding a licence, consent, registration, permission or authorisation. The Commission should only be able to exercise these powers if it appears that the auditors do not have the necessary skills and/or resources to carry out effectively their responsibilities as auditors or where the revocation is otherwise in the public interest. Any auditors against whom the Commission wished to exercise this power should be able to make representations to the Commission and to appeal to the court.
32. Each of the Banking, Fiduciary, Insurance and Protection of Investors Laws provide the Commission with powers to obtain information from institutions which, at the Commission's request, can be provided at the Commission's offices or during the Commission's on-site visits to institutions. In addition to this, the Commission proposes the Commission Law should include an overarching provision stating that the Commission may make on-site visits to persons holding a licence, consent, registration, permission or authorisation or any applicant for a licence, consent, registration, permission or authorisation. These provisions should be based on those in the most recent regulatory legislation, namely the Insurance Laws.

#### **CHANGES TO THE CONTROL OF BORROWING ORDINANCE, 1959, AS AMENDED ("COBO")**

33. The Commission suggests COBO should be amended to expressly state that the Advisory and Finance Committee (or any persons to whom the administration of COBO has been delegated under the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991) may issue guidance on the policies used to administer the issue and refusal of consents under COBO and the imposition and amendment of conditions, and may charge fees (prescribed by regulation) in respect of functions performed under COBO.

The foregoing suggestions and proposals have been discussed with the Guernsey International Business Association and take account of comments made by the finance sector."

The above mentioned laws, and the Commission's functions under them, apply throughout the Bailiwick. In this connection, the Policy and Finance Committee of the States of Alderney and the General Purposes and Finance Committee of the Chief Pleas of Sark have considered and agree with the suggestions and proposals made by the Commission.

The Advisory and Finance Committee has also considered the Commission's report. Mindful of the Committee's own commitment to the United Nations' Minimum Performance Standards which

embody the core standards promoted by the Basel Committee, IOSCO, FATF, the IAIS and the G7 countries, the Committee recommends the States to agree that amendment legislation should be prepared as detailed in the Commission's report.

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

Yours faithfully,

L. C. MORGAN,

President,  
States Advisory and Finance Committee

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The States are asked to decide:—

IX.—Whether, after consideration of the Report dated the 26th September, 2002, of the States Advisory and Finance Committee, they are of opinion:—

1. That amendments to Regulatory Legislation shall be prepared as detailed in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.



## STATES ADVISORY AND FINANCE COMMITTEE

### REVIEW OF STATES OF GUERNSEY AUDIT ARRANGEMENTS

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

22nd August, 2002.

Dear Sir,

#### **Review of States of Guernsey Audit Arrangements**

##### Background to the Review

1. In February 1997, the Committee recommended, and the States agreed, to the formation of an “independent audit body for the States of Guernsey”. In March 1998, following the approval of the States Audit Commission (Guernsey) Law, 1997 the States Audit Commission was formed and its first members appointed.
2. In its letter accompanying the Audit Commission’s third annual report (Billet d’État VI, 2001) the Committee included the following:

“The Commission was formed with effect from 1 March 1998 and in light of its experiences during this time, and in view of the ongoing review of the machinery of government, the Committee believes that it is now appropriate to consider what, if any, changes need to be made to the mandate and operation of the commission.

The Committee therefore intends, in co-operation with the Commission, to carry out such a review to ensure that the audit arrangements for the States are appropriate and continue to be in accordance with modern best practice”.

##### Performance and Findings of the Review

3. Following a competitive tendering exercise, the United Kingdom National Audit Office was commissioned to carry out this review and its report is attached as Appendix I.
4. The Committee would like to thank all those parties, including States Committees, individual States Members and representatives from a number of Non Governmental Bodies for their contribution to this review.
5. The subject and timing of this review coincides with some aspects of the Review of the Machinery of Government (for example, the formation of a Public Accounts Committee) and this has raised issues as regards the timing of implementing some of its recommendations.



6. However, with the agreement of the Audit Commission, it was concluded that the most pressing issues should be addressed by means of a separate and early approach to the States rather than waiting until all of the relevant issues arising from the Review of the Machinery of Government were progressed.
7. It is perhaps worth emphasising that the decision to review the States audit arrangements was taken independently of the Review of the Machinery of Government and the proposed changes to the Audit Commission Law are being sought to assist the Audit Commission in carrying out its present functions. On the other hand, they should not be seen as prejudicing any future arrangements arising out of the Review of the Machinery of Government.
8. The Committee believes that the following recommendations of the National Audit Office (“NAO”) which require amendment by Ordinance to the States Audit Commission (Guernsey) Law, 1997 should be implemented at an early stage:
  - The Audit Commission should be more independent of the Advisory and Finance Committee and therefore the President of the Committee should no longer be an ex-officio member of the Audit Commission.
  - The Audit Commission should be increased in size to six members all of whom should be non States Members.
  - Audit Commission Members should be entitled to receive remuneration in respect of their services as determined by the Committee from time to time.
9. The Committee believes that the most equitable form of payment would be for the Audit Commission Members to be able to claim an attendance allowance on the same terms and conditions as non States Members of States Committees. The Committee would emphasise that as regards remuneration the Commission itself has expressed no opinion.
10. It is also emphasised that many of the other recommendations of the NAO report are already in the process of being implemented however, these do not need the Law to be amended. For example, the NAO report recommends that “rights of access to non-States bodies receiving public funds should normally be a condition of funding.”
11. States committees have already taken on board this recommendation and rights of access for the States Internal Audit Department have already been made a condition of funding in a number of States contracts including in respect of the funding arrangements with the Medical Specialist Group, St. John Ambulance and Rescue Service, the Guernsey Housing Association and the Scheduled Bus Services.

#### Auditor General

12. One of the main recommendations in the NAO report is the introduction of an Auditor General’s Office but this will require the preparation of new primary legislation and therefore will take some time to arrange.
13. However, although the Committee is broadly supportive of the concept of increasing the independence of the external audit function of the States, it is concerned at the predicted annual budget of approximately £400,000. The Committee believes that further detailed investigation and research is required and that a more appropriate and cost effective way forward can be established.

14. The Committee is therefore proposing to investigate this matter further with the assistance of the Audit Commission and the NAO and to report back to the States with its detailed proposals as soon as possible, perhaps at the same time as its proposals for the formation of a Public Accounts Committee.

#### Internal Audit Department

15. The Internal Audit Department was established in 1987 as a result of the review of the organisation of the Advisory and Finance Committee by Peat Marwick Mitchell. However, it was only as part of the 1990 Policy Planning, Economic and Financial Report (Billet d'État XIII, July 1990), that the States approved the "Rôle and Responsibilities Statement for the Internal Audit Section of the States Treasury".
16. When the States approved the formation of the States Audit Commission (Billet d'État III, February 1997) the Committee reproduced, without amendment, the above mentioned Statement of Rôle and Responsibilities as, at that time, it did not consider it to be necessary to update it.
17. There can be no doubt that since 1990 there have been a number of changes to the size and scope of the States financial operations and the States Financial Procedures (in particular in respect of defining financial responsibilities, Billet d'État XI, May 1999). There has also been a general increase in the professional standards and practices expected from a modern internal audit function.
18. In the light of the above, and as recommended in the NAO report, the Committee believes that the rôle and responsibilities of the Internal Audit Department should be restated and endorsed by the States.
19. Although similar in content to the previous Statement of Rôle and Responsibilities approved by the States in 1997, the proposed Statement does reflect more up to date concepts of best practice of a modern internal audit function. In particular, it emphasises that the rôle of internal audit should be to provide a comprehensive assurance function and not be limited to a narrow definition of internal financial control.
20. Any element of the activities of the States, and its constituent parts, which involves or impacts on service delivery, risk management, compliance with legal and regulatory matters, best practice governance issues, as well as the more traditional aspects of controls over income, expenditure and safeguarding assets should be part of the mandate of any modern internal audit function.
21. The Committee recommends that the States approve the revised Statement of Rôle and Responsibilities of the Internal Audit Department, as set out in Appendix II.

#### Future Intentions

22. The Committee, in consultation with the Audit Commission, will continue to consider the implications of the Review of the Machinery of Government, including the future rôle and mandate of Public Accounts and Scrutiny Committees and report back accordingly. Furthermore, as set out above, the Committee will also report back to the States in respect of its detailed investigations into the formation of an Auditor General's Office.

Recommendations

The Committee therefore recommends the States:

- a) To agree that the membership of the States Audit Commission should be 6 persons, all elected by the States from persons nominated by the Committee who are not members of the States.
- b) To agree that members of the States Audit Commission should be entitled to receive remuneration as determined by the Committee from time to time.
- c) To direct the preparation of the necessary Ordinance to give effect to the above changes to the States Audit Commission (Guernsey) Law, 1997.
- d) To note the Committee's intention to report back as soon as possible on the results of its detailed investigations into the formation of an Auditor General's Office.
- e) To approve the Statement of Rôle and Responsibilities of the Internal Audit Department as set out in Appendix II to this report.

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

Yours faithfully,

L.C. MORGAN,

President,  
States Advisory and Finance Committee.

# Review of the Audit Arrangements within the States of Guernsey by the National Audit Office

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## Executive Summary

1. This report sets out the findings of a review by the UK National Audit Office of the audit arrangements within the States of Guernsey. The review was commissioned jointly by the States Audit Commission and the States Advisory & Finance Committee. The findings are based on evidence from a questionnaire, discussions with a wide range of interested parties in Guernsey, and comparisons of Guernsey's arrangements with accepted best practice and how things are done in other countries.
2. The audit arrangements in Guernsey have developed significantly over the last five years, with the formation of the Audit Commission a major step forward. Current audit procedures provide a great deal of assurance about the way that public money is used, safeguarded and accounted for. A number of key improvements could nevertheless be made to ensure that the States of Guernsey get full value from the audit process in future.

## The Structure of Audit in Guernsey

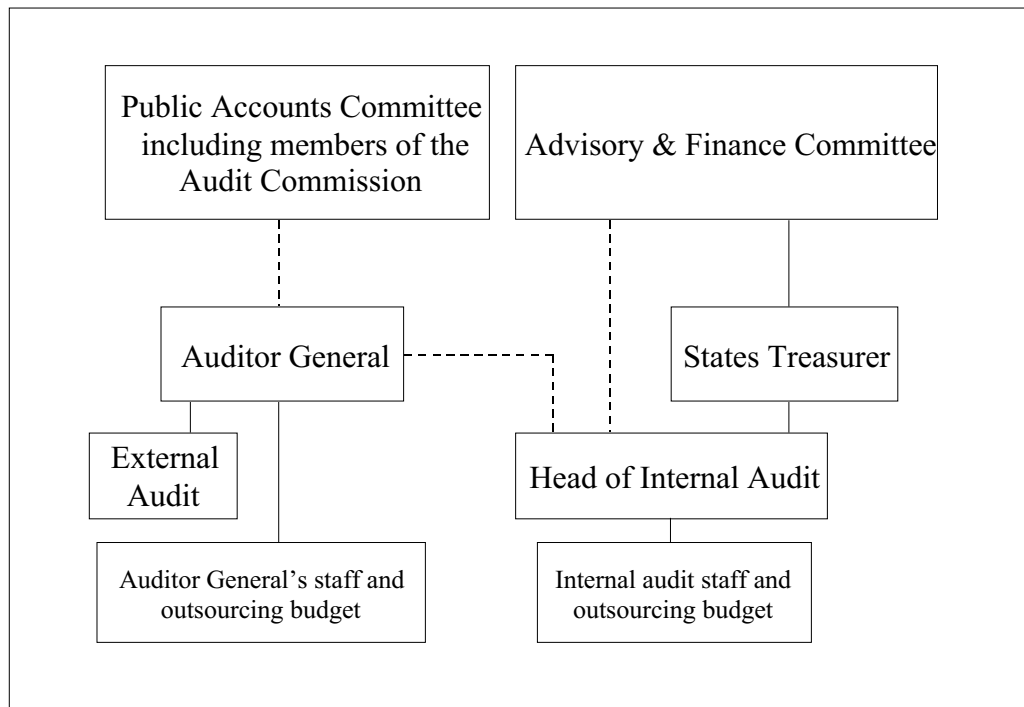
3. We examined whether the States' current audit structures, reporting and accountability lines are appropriate today in the light of developments in best practice. We conclude that the present structures have a number of unusual features which do not conform to best practice elsewhere:
  - (a) There is no separate scrutiny committee of the States. Many countries have a Public Accounts Committee whose purpose is to examine whether public money voted by the legislature has been spent in accordance with its intentions and with due regard to issues of regularity, propriety and value for money. We conclude that the States of Guernsey's arrangements for scrutinising the use made of public funds need to be strengthened. We recommend that a Public Accounts Committee should be established to provide effective scrutiny and to drive through necessary change (paragraphs 2.11 to 2.14).
  - (b) A Public Accounts Committee normally works alongside an Auditor General appointed by the legislature. The Auditor General brings the results of all external audit work<sup>1</sup> together and is responsible for examining how public funds are used, safeguarded and accounted for. We believe that Guernsey's current audit arrangements need a sharper focus so as to provide more effective oversight of public assets, expenditure and revenues. We recommend that an Auditor General should be appointed (paragraphs 2.15 to 2.17).
  - (c) The Audit Commission is not fully independent; its budget is set by the Advisory & Finance Committee and it must submit its reports through that Committee. Recommended good practice requires public sector audit to be independent of the executive. To ensure that public audit in Guernsey is not perceived to be compromised in any way, we recommend that the Audit Commission should be more independent of the Advisory and Finance Committee (paragraphs 2.18 to 2.21).
  - (d) The reporting lines for internal and external audit are intertwined. This creates confusion as to the nature and purpose of the audit work carried out. To overcome this confusion and meet best

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<sup>1</sup> The audit of financial statements, regularity, propriety and value for money.

practice, we recommend that the reporting lines should be separated and clarified. External audit should report independently of the executive<sup>2</sup>. Internal audit should continue to report to the States Treasurer (paragraphs 2.22 to 2.26).

4. We have developed a revised model, as set out below, for how States audit might be organised more effectively in the future. The model assumes that a Public Accounts Committee will be established and an Auditor General appointed. Under this model the members of the Audit Commission would become the non-States members of the Public Accounts Committee. An alternative arrangement would be for the Audit Commission to remain as a separate entity from the Public Accounts Committee and act as an advisory board for the Auditor General (paragraphs 2.36 to 2.45).
5. Some of the changes we recommend do not require any changes in the law and could be implemented relatively quickly if desired. Other changes would require amendments to the law. Establishment of a Public Accounts Committee is likely to be dependent on separate decisions made in relation to the recommendations of the Harwood Report on the machinery of government in Guernsey. In the meantime, the Audit Commission might act as a Public Accounts Committee in waiting, taking on the proposed functions of the committee as far as this is possible within the current law (paragraphs 2.46 to 2.51).



## New and Revised Audit Bodies

6. We also examined how the new and revised audit bodies under our proposed structure might operate:
  - (a) As suggested in the model above, we consider that the **Public Accounts Committee** should consist of a mixture of States and non-States members; possibly with a non-States member as Chairman, and a total membership of between 9 and 11. Members of other States committees - with the exception of Presidents and Vice-Presidents of major States committees - should be eligible for membership. The Committee should have the power to call committee Presidents, senior civil servants and expert witnesses to attend and to give evidence (paragraphs 3.2 to 3.11).

<sup>2</sup> External audit in this context covers both the external audit of the States accounts and the value for money examinations commissioned by the Audit Commission.

- (b) The **Audit Commission**'s small membership has created a very heavy workload for individual members and it has sometimes been difficult to get a quorum. It would therefore be sensible to increase the current size of the Audit Commission to, say, six members (paragraphs 3.12 to 3.23).
- (c) We consider that the **Auditor General** should be an individual appointment of the States. The Auditor General should be provided with a small supporting staff and an outsourcing budget and should have discretion in deciding upon his work programme, whilst paying due regard to the expectations of the States and the Public Accounts Committee. We consider that the Auditor General should be able to submit reports direct to the States of Deliberation with the expectation that they are placed in the public domain (paragraphs 3.24 to 3.38).
- (d) We recommend that the principal aim of the States **Internal Audit** should be to provide a comprehensive assurance function, covering risk management, financial and operational controls, and corporate governance. Internal audit should work closely with States committees to achieve improvements in these areas (paragraphs 3.39 to 3.62).

## Rights of Audit Access

7. We examined the audit access arrangements in Guernsey against the principle that state auditors should have access to the books and records of all entities that handle public funds. We identified a number of anomalies in the present arrangements. We recommend that rights of audit access to non-States bodies receiving public funds should normally be a condition of funding and that rights of audit access to statutory regulators should be enshrined in legislation. Although we consider that rights of audit access to States Trading Companies might only rarely, if ever, need to be exercised, we recommend that such rights of access should be available as a necessary long stop (paragraphs 4.2 to 4.17).
8. Rights of access also carry heavy responsibilities. Access should not be exercised without proper consideration of need and competing priorities. Care needs to be taken to avoid potential misunderstandings. We recommend that auditors and the bodies involved should agree protocols setting out the arrangements for the exercise of rights of access on a case by case basis (paragraphs 4.18 to 4.24).

## Recommendations

9. A full list of our recommendations grouped according to the issues or bodies to which they refer is as follows:

### *Audit Structure, Reporting and Accountability Lines*

- (a) The reporting and accountability lines for external and internal audit should be separated. External audit should report independently of the executive (paragraph 2.25).
- (b) A revised audit structure should be implemented along the lines of our alternative model 2 (paragraph 2.45).

### *Public Accounts Committee*

- (c) A Public Accounts Committee should be established to provide financial and management scrutiny of government activities in the States of Guernsey (paragraph 2.14).
- (d) The Public Accounts Committee should consist of a mixture of States and non-States members, possibly with a non-States member as Chairman, and a total membership of, say, between 9 and 11. Members of other States committees - with the exception of Presidents and Vice-Presidents

of major States committees - should be eligible for membership of the Public Accounts Committee (paragraph 3.5).

- (e) The Public Accounts Committee should meet regularly. The Committee should have the power to call committee Presidents, senior civil servants and expert witnesses to attend and to give evidence on the issues raised by the Auditor General's reports. The Committee should also be empowered to make recommendations to the States that would require a formal response from the executive (paragraph 3.11).
- (f) The Public Accounts Committee should review the Auditor General's budget and present it to the States for approval (paragraph 3.36).

### *Audit Commission*

- (g) The Audit Commission should be more independent of the Advisory and Finance Committee (paragraph 2.21).
- (h) In due course the Audit Commission should merge with the proposed Public Accounts Committee (paragraph 2.45).
- (i) The Audit Commission should be increased in size to, say, six members (paragraph 3.16).
- (j) Payment of Audit Commission members should only be considered if the Commission is to remain in its present form (paragraph 3.21).

### *Auditor General*

- (k) An Auditor General should be appointed to provide an independent focus for the examination of how public funds are used, safeguarded and accounted for and to enable the Public Accounts Committee to undertake its scrutiny role effectively (paragraph 2.17).
- (l) A separate budget and staff complement should be earmarked for value for money audit (paragraph 2.32).
- (m) The responsibility for appointing the external auditors of the States accounts should be transferred to the proposed Auditor General. It also needs to be considered whether the Auditor General should formally sign off the States accounts (paragraph 2.35).
- (n) The Auditor General should be appointed by the States of Deliberation on the nomination of the Public Accounts Committee. The terms and conditions should be fixed in law and the salary set at a level to reflect the importance of the post (paragraph 3.28).
- (o) The Auditor General should have discretion in deciding upon his work programme and in exercising his functions, whilst paying due regard to statutory requirements; to the expectations of the States of Deliberation, the Public Accounts Committee and the public; and to professional standards (paragraph 3.29).
- (p) The Auditor General's remit should also cover regularity, propriety and value for money audits (paragraph 3.29).
- (q) The Auditor General should have a role in assessing the effectiveness of internal audit (paragraph 3.29).
- (r) The Auditor General should be able to submit his reports direct to the States of Deliberation with the expectation that they are placed in the public domain (paragraph 3.29).



- (s) The Auditor General should be provided with a small supporting staff and an outsourcing budget, at a basic cost of around £400,000 a year (paragraph 3.35).
- (t) The Auditor General should adopt appropriate measures of performance and targets to demonstrate that the work of the Auditor General's office is cost-effective and adds value. The Auditor General should also from time to time, say every three to five years, invite another audit office to undertake a peer review of his work (paragraph 3.38).

### *Internal Audit*

- (u) The internal audit department should continue to report to the States Treasurer (paragraph 2.26).
- (v) The principal aim of internal audit in Guernsey should be to provide a comprehensive assurance function, covering risk management, financial and operational controls, and corporate governance. The priority accorded to each of these areas should be determined in the light of an assessment by internal audit of their relative strengths and weaknesses (paragraph 3.50).
- (w) Internal audit should work closely with States committees to improve risk management, control and corporate governance arrangements (paragraph 3.51).
- (x) The staffing and budget of the internal audit department should be reassessed in the light of recent staff changes, the extension of internal audit's remit to provide a comprehensive assurance function and the available budget for contracted-out work (paragraph 3.58).
- (y) Appropriate performance measures and targets should be devised to demonstrate the efficiency and effectiveness of internal audit's work (paragraph 3.61).

### *Audit Committees*

- (z) The largest States committees should consider whether an audit sub-committee might be appropriate in their particular circumstances. Alternatively, the committee might wish to sit as an audit committee from time to time (paragraph 3.66).

### *Rights of Audit Access*

- (aa) Rights of audit access to non-States bodies receiving public funds should normally be a condition of funding (paragraph 4.11).
- (bb) Rights of audit access to statutory regulators should be enshrined in legislation (paragraph 4.13).
- (cc) Although rights of audit access to States Trading Companies where the States have a controlling interest might only rarely, if ever, need to be exercised, such rights of access should be available as a necessary long stop (paragraph 4.17).
- (dd) Auditors and the bodies involved should agree protocols setting out the arrangements for the exercise of rights of access (paragraph 4.24).

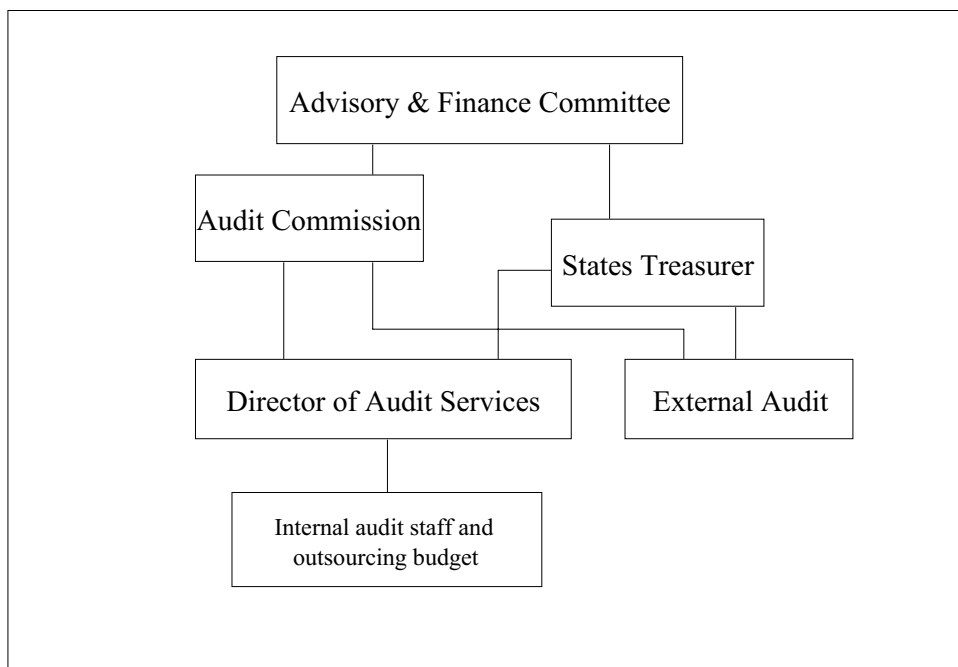
## Part Two: The Structure of Audit in Guernsey

2.1 This part of the report examines the current audit structures and reporting lines within the States of Guernsey and compares them against best practice elsewhere. We conclude that there are some unusual features of the current audit structure, which are likely to prevent the States of Guernsey from getting full value from the audit process. We then consider two alternative models as to how audit might be organised for the future and recommend the model that is most likely to meet Guernsey's needs. We also consider how the new structure might be implemented.

### Current audit structure

2.2 The key players in government audit in Guernsey are the Audit Commission, the Director of Audit Services and her internal audit staff, and the external auditors of the States accounts. The Audit Commission has powers to report to the States, albeit through the Advisory & Finance Committee. The Director of Audit Services and the external auditors are accountable to both the Audit Commission and the States Treasurer (Figure 1).

**Figure 1: Current audit structure and reporting lines**



### Audit Commission

2.3 The States Audit Commission was established with effect from 1 March 1998 with the following remit:

- ☐ to oversee, co-ordinate and evaluate the internal audit of States interests;
- ☐ to receive, on behalf of the Advisory and Finance Committee, all reports made by external auditors of States interests;
- ☐ to monitor the selection and application by States committees of accounting standards, accounting policies and accounting procedures;

- ❑ to assist and encourage States committees, where appropriate by commissioning studies and reports, in the effective, efficient and economical management of States' assets and finances;
- ❑ to report to the Advisory and Finance Committee in relation to all of the above matters.

The Audit Commission may require any report that it has received, together with its comments on the report, to be placed before the States.

2.4 The Audit Commission is made up of four ordinary members. The President of the Advisory & Finance Committee sits on the Audit Commission as an ex officio member. The States elect the ordinary members from nominations made by the Advisory & Finance Committee. The Chairman and Vice-Chairman of the Audit Commission are elected by the ordinary members from amongst themselves. The Commission meets on a monthly basis as a minimum.

### *Director of Audit Services and Internal Audit*

2.5 The Director of Audit Services acts as Chief Executive of the Audit Commission, and the staff of the internal audit department provide the resources to complete the Audit Commission's work. The Audit Commission also has a budget to employ outside contractors to complete specific elements of its work. This budget forms part of the budget of the Advisory & Finance Committee.

2.6 The Director of Audit Services is also the Head of Internal Audit. The role of the internal audit department is:

- ❑ to perform internal audit reviews of all States committees and interests to ensure that States assets and finances are safeguarded and used effectively, economically and efficiently;
- ❑ to perform value for money reviews of States committees, interests and functions on behalf of the Audit Commission;
- ❑ to report on the state of internal controls within States interests to the relevant committee President and to the Audit Commission;
- ❑ to report to the Advisory & Finance Committee any non-compliance with States accounting standards and guidelines;
- ❑ to identify for the Advisory & Finance Committee any areas where accounting guidance is required;
- ❑ to assist in the training of future senior finance staff.

2.7 The internal audit department has six full-time equivalent staff and is financed by the Advisory & Finance Committee. It also has a budget to buy-in internal audit services from an external provider. A one-year contract is currently in place with Bentley Jennison to provide those services. For administrative purposes, the Director of Audit Services reports to the States Treasurer.

### *External Audit of the States Accounts*

2.8 External audit of the States accounts is currently provided by Deloitte & Touche. The external auditors provide an opinion on the States accounts in accordance with appropriate auditing standards. They report through the Audit Commission to the Advisory & Finance Committee. The Advisory & Finance Committee is required to lay their report before the States.

- 2.9 The external audit contract is due for re-tender in early 2002. The Advisory & Finance Committee must consult the Audit Commission before making any decision or recommendation to the States in respect of the selection, appointment or remuneration of external auditors.

### **Unusual Features of the Current Audit Structure**

- 2.10 The current audit structure, reporting and accountability lines in Guernsey have a number of unusual features, which do not conform to best practice elsewhere:

- ❑ there is no separate scrutiny committee of the States;
- ❑ there is no central focus for independent external audit;
- ❑ the Audit Commission is not fully independent;
- ❑ the reporting lines for internal and external audit are the same;
- ❑ the Director of Audit Services serves two masters;
- ❑ there is no separate budget for value for money audit;
- ❑ the States Treasurer, on behalf of the Advisory & Finance Committee, advises on the appointment of the external auditors of the States accounts.

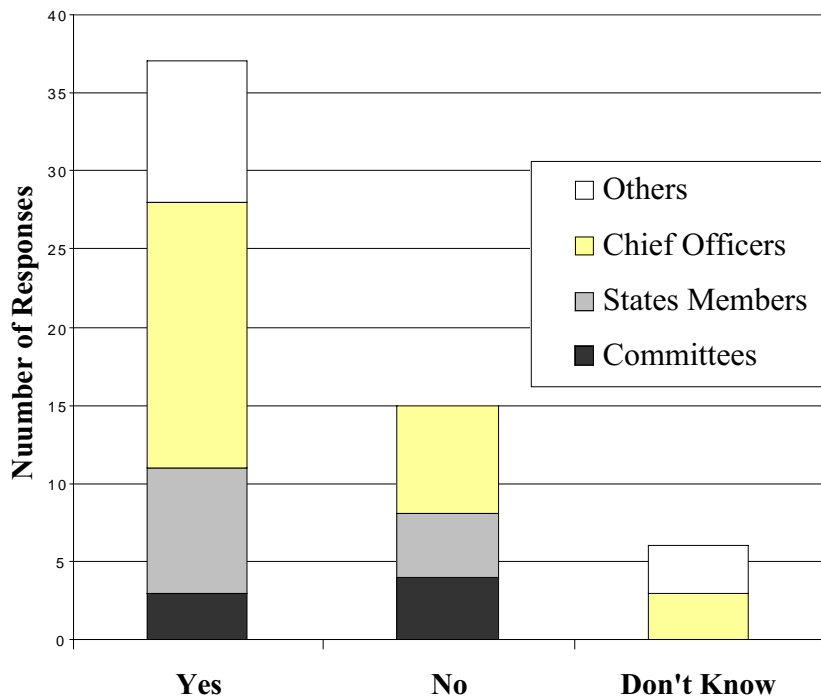
### **Scrutiny Committee**

- 2.11 In many countries there is a separate committee of the legislature - often called a Public Accounts Committee - whose purpose is to examine whether public money voted by the legislature has been spent in accordance with its intentions and with due regard to issues of regularity, propriety and value for money. All the constituent countries of the UK, most commonwealth countries and 10 of the 15 legislatures of the European Union have such committees. However, no such committee exists in the States of Guernsey. There is thus a risk that important matters of financial accountability and control and the proper spending of public funds will not receive the attention they deserve. Such matters need high level involvement and commitment at a political level to drive through necessary change.
- 2.12 The Harwood Panel attached great importance to the introduction of effective scrutiny. The Harwood Report considered that a Public Accounts Committee should be established to examine matters pertaining to expenditure, audit and accounts. This particular recommendation of the Harwood Report has been accepted by the Joint Committees who are examining the Harwood proposals. In the public consultation document released in December 2001, the Joint Committees recommended that financial and management scrutiny should be provided by a Public Accounts Committee.
- 2.13 A majority of respondents to our questionnaire<sup>3</sup> considered that a more effective system for scrutinising government activities needs to be established (Figure 2). There was also a strong degree of support for the establishment of a Public Accounts Committee from those people we interviewed, although some were concerned about setting up another committee when Guernsey already had so many. Proposals by the Joint Committees to reduce the number of States committees may help to assuage such concerns.

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<sup>3</sup> Q2 at Annex A to Appendix 2

**Figure 2: Does a more effective system for scrutinising government activities need to be established?**



Note: in this and other figures in this report showing the views of respondents to our questionnaire, the view of each individual committee has been shown as a single response.

### *Focus for Independent External Audit*

2.14 We conclude that the States of Guernsey's arrangements for effective scrutiny of public funds need strengthening. **We recommend that a Public Accounts Committee should be established to provide financial and management scrutiny of government activities in the States of Guernsey.**

2.15 A Public Accounts Committee normally works alongside an independent officer - often known as the Auditor General - appointed by the legislature. The Auditor General provides a single central focus for all external audit work and is responsible for examining how public funds are used, safeguarded and accounted for. The Auditor General normally has a close relationship with the Public Accounts Committee, providing the necessary audit evidence to enable the committee to undertake its scrutiny role effectively.

2.16 Most countries have appointed an Auditor General or equivalent. Some 73 out of 113 Supreme Audit Institutions are headed by such a person. Many smaller jurisdictions of similar size to Guernsey - including Bermuda, Gibraltar, Iceland and Malta - have appointed an Auditor General or equivalent, and Jersey is likely to be doing so in the near future. The States of Guernsey does not at present have an independent person responsible for bringing together the different strands of external audit. It is also difficult to see how a Public Accounts Committee could function effectively without such a post being established.

2.17 We conclude that Guernsey's current audit arrangements need a sharper focus so as to provide more effective oversight of public assets, expenditure and revenues. **We recommend that an Auditor General should be appointed to provide an independent focus for the examination of how public**

**funds are used, safeguarded and accounted for and to enable the Public Accounts Committee to undertake its scrutiny role effectively.**

### *Independence of the Audit Commission*

2.18 The Lima Declaration<sup>4</sup> makes clear that Supreme Audit Institutions can accomplish their tasks objectively and effectively only if they are independent of the audited entity and are protected against outside influence. The Public Audit Forum<sup>5</sup> states that public audit must be independent of the organisations being audited so that the auditors cannot be improperly influenced by those whose work they audit and are able to carry out their role freely. The methods of appointment of the auditors of public services should ensure that the appointed auditor is, and is seen to be, independent of the audited body and can report without fear or favour. The financial relationship between auditors and auditees should be such that it does not compromise the independence of the auditor.

2.19 The States Audit Commission is the nearest equivalent that Guernsey has to the external audit set-up that exists in many other countries. However, the Audit Commission is not fully independent of the executive. It is subject to influence from the Advisory & Finance Committee, which has executive responsibilities in Guernsey similar to treasury departments or finance ministries in other countries. There are four main concerns about the Audit Commission's independence:

- ❑ the Advisory & Finance Committee vets the membership of the Audit Commission before submitting nominations to the States for approval;
- ❑ the President of the Advisory & Finance Committee is an ex-officio member of the Audit Commission;
- ❑ the Advisory & Finance Committee sets the Audit Commission's budget;
- ❑ the Audit Commission must submit its reports through the Advisory & Finance Committee.

2.20 Our interviews detected a perception, by no means universal, that the Audit Commission is led by the Advisory and Finance Committee. Some said that the relationship between the two bodies is poor. A majority of respondents to the questionnaire considered that the Audit Commission should be independent of the Advisory and Finance Committee<sup>6</sup> and that it is inappropriate to have political representation on the Audit Commission (Figure 3)<sup>7</sup>.

2.21 Recommended good practice, which is adopted by most Supreme Audit Institutions, requires public sector audit to be independent. This allows state auditors to decide their own programmes of work and how they should be undertaken and also enables them to report their findings as they see fit. To ensure that public audit in Guernsey is not perceived to be compromised in any way, **we recommend that the Audit Commission should be more independent of the Advisory and Finance Committee.**

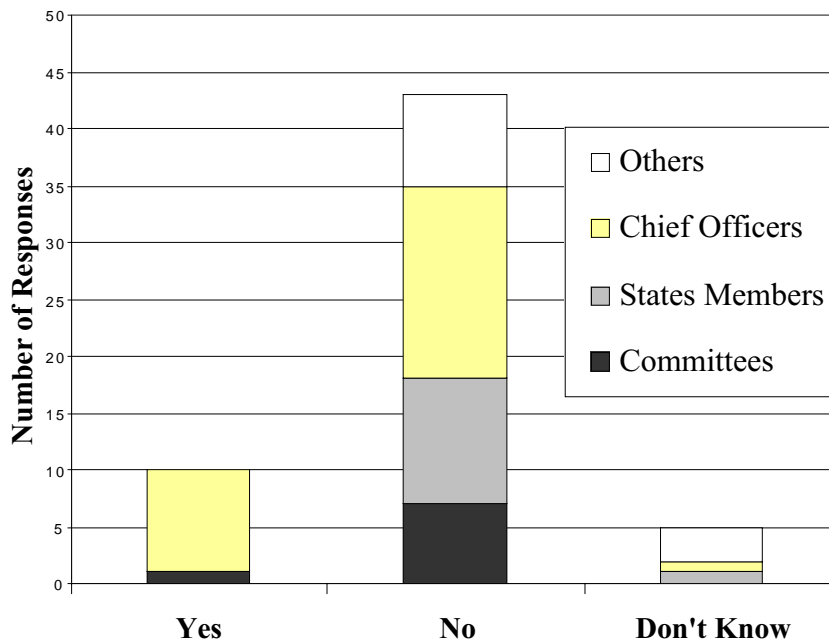
<sup>4</sup> The Lima Declaration of the International Organisation of Supreme Audit Institutions, 1977.

<sup>5</sup> The Principles of Public Audit, October 1998. The Public Audit Forum was established in 1998 by the then four UK National Audit Agencies to provide a focus for developmental thinking about public audit.

<sup>6</sup> Q4 at Annex A to Appendix 2.

<sup>7</sup> Q5 at Annex A to Appendix 2.

**Figure 3: Is it appropriate to have political representation on the Audit Commission?**



### *Reporting Lines for Internal and External Audit*

2.22 As noted above, best practice recommends that the external audit of government activities should be completely independent of the executive. The external auditor would normally report either direct to the elected legislature or to a scrutiny committee of the legislature. Internal audit, on the other hand, is a function of management and would normally report to the highest level of management in an organisation.

2.23 In Guernsey the reporting and accountability lines for internal and external audit are intertwined. They are both accountable in different ways to both the Audit Commission and the States Treasurer and through them to the Advisory and Finance Committee. This creates confusion as to the nature and purpose of the audit work carried out. For example, the value for money work carried out by the internal audit department for the Audit Commission is similar in many ways to the sorts of examinations carried out by a government external auditor. Yet very few people viewed this as external audit, probably because of the Audit Commission's perceived lack of independence referred to earlier. Indeed many of the people we interviewed considered that the Audit Commission is responsible for commissioning internal audits.

2.24 A majority of respondents to the questionnaire were in favour of separating the reporting and accountability lines for external audit from the reporting and accountability lines for internal audit<sup>8</sup>. This view was supported by most of the people we interviewed.

2.25 To overcome the confusion referred to above and to meet best practice, **we recommend that the reporting and accountability lines for external and internal audit should be separated. External audit should report independently of the executive.** External audit in this context covers both the external audit of the States accounts and the value for money examinations commissioned by the Audit Commission.

<sup>8</sup> Q3 at Annex A to Appendix 2.

- 2.26 **We recommend that the internal audit department should continue to report to the States Treasurer**, who is responsible for internal controls of the States across all States committees. The Head of Internal Audit should be able to report direct to the Advisory and Finance Committee on matters concerning the Treasury or in the unlikely event of a conflict with the States Treasurer.

### *Director of Audit Services*

- 2.27 The Director of Audit Services works to both the Audit Commission and the States Treasurer. Having to serve two masters is never a comfortable position for anyone and is poor management practice: it can give rise to conflicts of interest and competing priorities. The potential for difficulty is aggravated in this instance because the Audit Commission and the States Treasurer each have an interest in internal audit matters. The proposals we have made to simplify and to separate reporting lines should solve this problem.

### *Value for Money Audit*

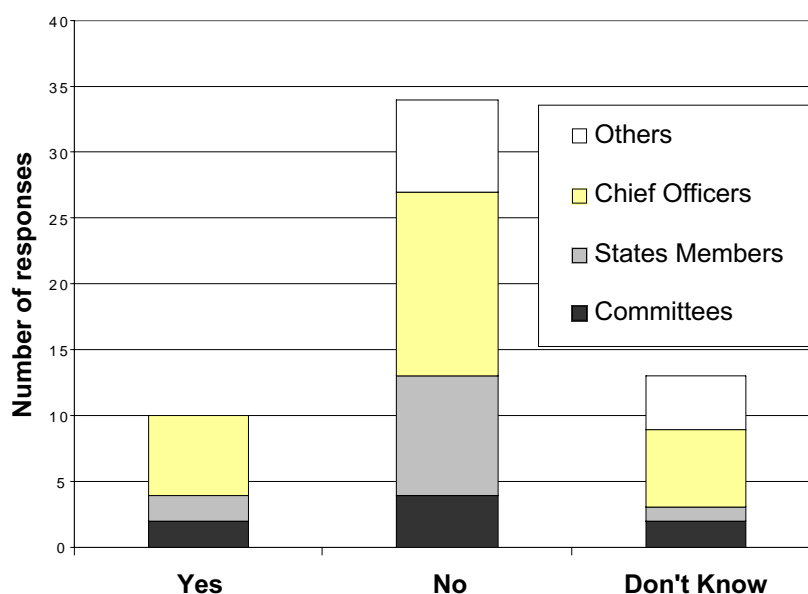
- 2.28 Value for money examinations are an increasingly important aspect of modern state audit. They identify what is going well and what is going less well in the management and delivery of government programmes and services; they make recommendations to improve the efficiency and effectiveness of operations, both in the area examined and for similar activities elsewhere; and they frequently point the way for significant cash savings to be secured, often on a continuing basis. Value for money audits therefore achieve two purposes: they provide the elected legislature with an assessment as to how well particular functions and projects are being run; and they enable performance to be improved and benefits secured, both now and for the future.
- 2.29 Since its inception, the Audit Commission has issued value for money reports on five subjects: Purchasing in the States of Guernsey (June 1998 and follow-up report in April 2000); The Administration of States Property (October 1998); Performance Reporting (March 1999); Risk Management & Insurance (January 2000); and Review of Information & Communications Technology in the States of Guernsey (May 2001).
- 2.30 The fieldwork for the last of these reports was carried out in 2000. Since then no new value for money reviews have been undertaken and currently there are none in the pipeline. The Audit Commission's stated intention is to make use of any additional resources to implement a programme of value for money reviews. But because of a lack of staff in the internal audit department, this has not been possible, as the programme of internal control improvement has had to be given priority.
- 2.31 In our questionnaire we asked whether sufficient value for money audit was undertaken in Guernsey<sup>9</sup>. The answer was a clear no (Figure 4). Many of the people we interviewed considered that the Audit Commission's value for money work was very valuable but there was just not enough of it. Some thought it essential that more effectiveness audits should be undertaken, ensuring that "the right things were being done, rather than just that things were being done right".
- 2.32 There is a clear conflict of priorities between the needs of the internal audit department in undertaking essential internal control work and the needs of the Audit Commission's important value for money programme. This conflict arises because the budget for both of these functions is lumped together and because the same staff are used to manage and carry out the work. **We recommend that a separate budget and staff complement should be earmarked for value for money audit.** Our proposals above to separate the reporting lines for internal and external audit should enable this to be achieved.

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<sup>9</sup> Q11 at Annex A to Appendix 2.



**Figure 4: Is there sufficient value for money audit undertaken to provide adequate assurance about the economy, efficiency and effectiveness with which the States' resources are used?**



### *Appointment of the External Auditors of the States Accounts*

2.33 It is a widely accepted tenet of best practice that no public sector body responsible for the exercise of executive functions should appoint its own auditors. There is a clear conflict of interest if those responsible for preparing accounts also have a hand in the appointment of the auditors who provide an opinion on those accounts.

2.34 In those countries that have an Auditor General, it is almost invariably the Auditor General who appoints the external auditors of the government's accounts. Sometimes - generally in larger countries - the Auditor General will have his own staff to do this work. In other places - particularly in smaller jurisdictions - the Auditor General will contract the work out to private sector firms. In most countries the Auditor General signs off the government's accounts irrespective of whether the underlying audit work is done in-house or is contracted out to the private sector. It therefore needs to be considered whether the Auditor General should formally sign off the States accounts in Guernsey. This would require the Auditor General to ensure that the external auditors' work is carried out to appropriate professional standards and is sufficient to meet the States requirements.

2.35 The arrangements in Guernsey whereby the States Treasurer, on behalf of the Advisory & Finance Committee, initiates the appointment of the external auditors of the States accounts - even though the Audit Commission is consulted - do not meet best practice. **We recommend that the responsibility for appointing the external auditors of the States accounts should be transferred to the proposed Auditor General. It also needs to be considered whether the Auditor General should formally sign off the States accounts.**

### *Alternative audit structures*

2.36 The various participants in the audit process in Guernsey do a lot of important and essential work and provide a good deal of assurance about the proper use of public money in the States. The system is made to work because of the hard work and dedication of the people who operate it. But clearly the present structure causes a number of problems that need to be addressed.

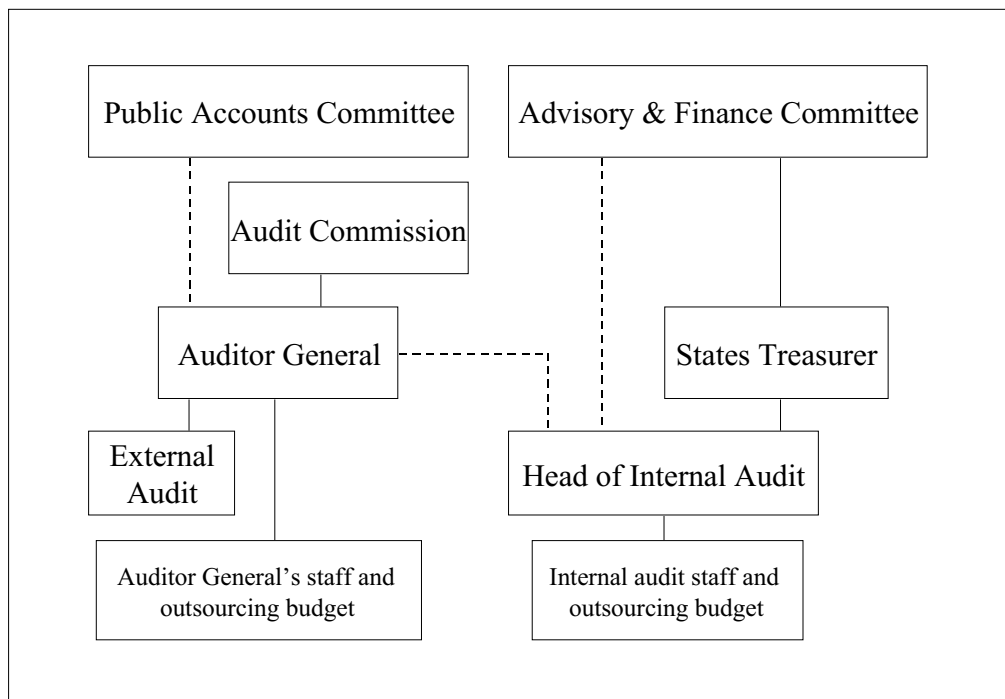
2.37 To address the difficulties with the current audit structure referred to in the preceding paragraphs, we have considered two alternative models as to how States audit might be organised more effectively in the future. Both models assume that a Public Accounts Committee will be established and an Auditor General appointed as recommended above. The first model retains the Audit Commission as a separate entity from the Public Accounts Committee. The second model merges the Audit Commission with the Public Accounts Committee.

### **Model 1**

2.38 In this model (Figure 5), the Head of Internal Audit would report to the States Treasurer as now and through him to the Advisory & Finance Committee. The Head of Internal Audit would have a direct route to the Advisory & Finance Committee (dotted line) should a conflict of interest arise with the Treasurer.

2.39 A Public Accounts Committee of States Members would be set up and an Auditor General appointed. The Public Accounts Committee would take evidence from committees, officials and others on the basis of the Auditor General's work and issue its own recommendations. The Auditor General would work closely with the Public Accounts Committee (dotted line) and would be required to have regard to the Committee's views. In line with common practice, however, the Committee would not be able to direct the Auditor General's work. The Audit Commission would act as a supervisory board to the Auditor General and approve the Auditor General's budget and work programme. This is similar to the relationship between the UK Audit Commission and the Controller of Audit.

**Figure 5: Alternative audit structure and reporting lines  
(Model 1)**



2.40 The Auditor General would be responsible for appointing the external auditors of the States accounts and would have a small in-house team and an outsourcing budget for undertaking value for money audits. The Auditor General would also have a responsibility (dotted line) to ensure that internal audit is set up properly and is operating effectively.

2.41 This model addresses all the problems previously identified: it introduces a Public Accounts Committee and Auditor General as the central focus for independent external audit; separates the

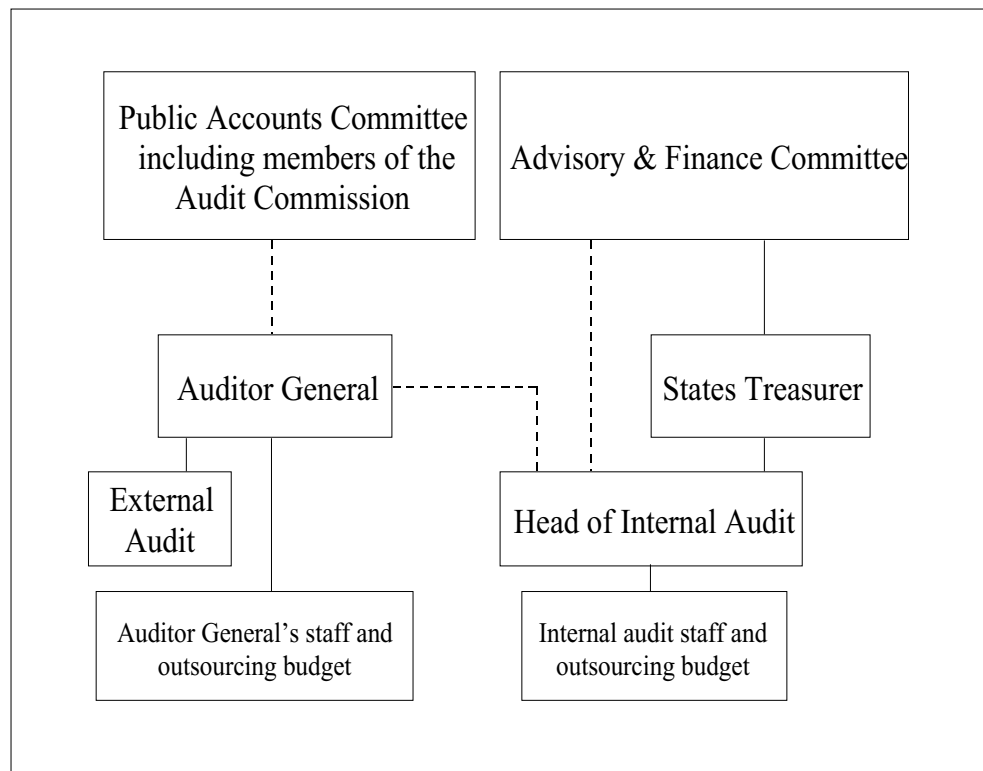
reporting and accountability lines for external audit from those of internal audit; makes the Audit Commission independent of the Advisory & Finance Committee; provides a separate budget and staff for value for money work; and makes the Auditor General responsible for appointing the external auditors.

- 2.42 The main disadvantage of this model is that it introduces an extra layer of audit by having both a Public Accounts Committee and an Audit Commission. It would not provide a very strong role for the Audit Commission. There could also be a clash of interests between the Public Accounts Committee and the Audit Commission.

### Model 2

- 2.43 This is a slight variation of the previous model. Here the Audit Commission becomes part of the Public Accounts Committee. So, for example, a Public Accounts Committee could be set up consisting of equal numbers of States and non-States members. It might even be chaired by a non-States member.

**Figure 6: Alternative audit structure and reporting lines (Model 2)**



- 2.44 This model has the same advantages as Model 1 in that it addresses all the difficulties with the current structure. It also provides a much stronger role for the members of the Audit Commission by making them the core of the Public Accounts Committee. The practicalities of how the Public Accounts Committee might work are addressed in Part 3 of this report.
- 2.45 We consider that both models would be better than the current structure. We have a preference for the second because it is simpler, avoids too many layers of audit and provides a stronger role for the members of the Audit Commission. **We recommend that a revised audit structure should be implemented along the lines of our alternative model 2. We recommend that in due course the Audit Commission should merge with the proposed Public Accounts Committee.**

## Implementation

2.46 This section considers how the revised structure might be implemented if a decision were to be made to go ahead with the changes we recommend. Implementation might be achieved in three stages as set out in Figure 7.

**Figure 7: Suggested stages for implementing the revised structure**

Short Term (no changes in law required)	<ul style="list-style-type: none"> <li>• Appoint someone to oversee implementation</li> <li>• Separate reporting lines for internal and external audit</li> <li>• Set up value for money team</li> <li>• Audit Commission to continue to report through Advisory &amp; Finance Committee until Public Accounts Committee set up</li> </ul>
Medium Term (changes in law required)	<ul style="list-style-type: none"> <li>• Revise Audit Commission law</li> <li>• Appoint Auditor General</li> </ul>
Longer Term (linked to any Harwood-related changes)	<ul style="list-style-type: none"> <li>• Set up Public Accounts Committee</li> <li>• Audit Commission to merge with Public Accounts Committee (if desired)</li> </ul>

### *Short term*

2.47 It would be sensible in the first instance to appoint someone to manage the changes and oversee implementation. This person should initially identify those changes that require amendments to the law or otherwise need the approval of the States of Deliberation and should set the wheels in motion for seeking the necessary approvals.

2.48 A number of the proposals that do not require changes in the law could be implemented quite quickly over the short term. A value for money team could be set up and a shadow Auditor General appointed in the same way that shadow appointments were made to the posts of utility regulator and data protection commissioner. The reporting lines for internal and external audit could also be separated as far as possible. Changes could also be made to the remit of internal audit and to the focus of its work (Part 3).

2.49 The Audit Commission would need to continue to report through the Advisory and Finance Committee until a Public Accounts Committee could be set up. In the meantime, the Audit Commission might act as a Public Accounts Committee in waiting, taking on the proposed functions of the committee as far as this is possible within the current law.

### *Medium term*

2.50 In the medium term, amendments to the Audit Commission law could be sought to implement any changes as regards composition, membership and remuneration (Part 3) and access arrangements (Part 4). States approval could also be sought for an Auditor General post, with terms and conditions fixed by law, and for the appointment of an Auditor General.

### *Longer term*

2.51 Establishment of a Public Accounts Committee is likely to have to wait until any changes to the committee structure arising out of the Harwood report have been debated, agreed and implemented. This may not be until 2004. Before then a decision will need to be made as to whether the Audit Commission should be amalgamated with the Public Accounts Committee or should remain a separate entity.

## Part Three: New and Revised Audit Bodies

- 3.1 This part of the report examines how the new and revised audit bodies under our proposed structure might work. We consider and make recommendations for possible working arrangements for a Public Accounts Committee, the Audit Commission, an Auditor General and Internal Audit. We also consider whether there is a case for the main States committees to have their own audit sub-committees.

### Public Accounts Committee

- 3.2 In Part 2 of this report we recommended that a Public Accounts Committee should be established to provide financial and management scrutiny of government activities in the States of Guernsey. In this section we consider what membership the Committee might have, what its terms of reference might be and how it might operate.

#### *Membership*

- 3.3 The Public Accounts Committee or its equivalent is normally a very senior committee of parliament. In most countries it is made up of backbenchers and is often chaired by a senior member of the opposition party. This model is clearly not appropriate for Guernsey, with Guernsey's non-party political and committee style of government. The members of the Public Accounts Committee in Guernsey will therefore need to be drawn from people who may also have executive responsibilities as members of other committees. If the Public Accounts Committee were about to consider a matter relating to a member's executive responsibilities, that member would need to stand down when the matter was being discussed. It would clearly be inappropriate, however, for the President or Vice-President of a major States committee to be a member of the Public Accounts Committee.
- 3.4 In Part 2 we recommended that the members of the Audit Commission should form part of the membership of the Public Accounts Committee. The Committee might then be comprised of roughly equal numbers of States and non-States members, perhaps with an additional non-States member as Chairman. It would be important for the Committee to have enough members so that a quorum would be maintained even when members had to stand down because of conflicts of interest. This suggests that a total membership of, say, between 9 and 11 might be appropriate. As with other committees, the States of Deliberation would need to approve the membership and chairmanship of the Public Accounts Committee.
- 3.5 We recommend that the Public Accounts Committee should consist of a mixture of States and non-States members, possibly with a non-States member as Chairman, and a total membership of, say, between 9 and 11. Members of other States committees - with the exception of Presidents and Vice-Presidents of major States committees - should be eligible for membership of the Public Accounts Committee.**

#### *Terms of reference*

- 3.6 Some suggested terms of reference for the Public Accounts Committee are set out in Figure 8. These are not exhaustive and will need to be developed further in the light of the decisions made on the constitution and operation of the Committee.

#### *Operation*

- 3.7 The Public Accounts Committee would need to meet regularly to discharge its functions. In the UK the Public Accounts Committee meets twice a week whilst Parliament is sitting (about 45 times a year) and in Wales the equivalent committee meets once a month (about 10 times a year). The Audit Commission in Guernsey currently meets once a month and this is probably also the right frequency

for the Public Accounts Committee. As in other countries, meetings might be open to the public when taking evidence unless there are compelling reasons why a meeting should be held in camera.

**Figure 8: Suggested terms of reference for the Public Accounts Committee**

To ensure that proper and thorough scrutiny is given to the States' assets, expenditure and revenues to ensure that States committees and public bodies operate to the highest standards in the management of their financial affairs.

To examine reports prepared by the Auditor General on the external audit of the accounts of the States and other public bodies and on the economy, efficiency and effectiveness with which States committees and public bodies have used their resources in discharging their functions.

To make specific inquiries into issues of interest or concern arising from the work of the Auditor General, without questioning the merits of the policy objectives of States committees or other bodies under review.

To have the power to send for persons, papers and records and to report from time to time.

To advise the States on the appointment of the Auditor General and on the approval of the Auditor General's budget.

To comment on the Auditor General's work programme without impinging on the Auditor General's ultimate right to determine his own priorities.

- 3.8 The Public Accounts Committee should base its enquiries on the work done and provided to it by the Auditor General. The Committee should have the authority to call for committee Presidents, senior civil servants and expert witnesses to attend and give evidence. In the UK and Ireland and other countries following the Westminster model, it is usual for civil servants and not ministers to be called as witnesses. In many other countries, however, it is ministers rather than civil servants who are called as witnesses. This seems to be the right approach for Guernsey to follow where the Presidents and members of committees rather than civil servants are the principal line of public accountability.
- 3.9 The calling of witnesses before a States committee would be a new concept for Guernsey and would need careful handling until the new arrangements bedded down. It is relevant to note, however, that committee Presidents voluntarily attend meetings of the Audit Commission by invitation.
- 3.10 The purpose of the Committee's meetings would be to question key witnesses on the findings in the Auditor General's reports and to ensure that action is taken where weaknesses are uncovered. The Committee would then make recommendations to the States that would require a formal response from the executive. The Committee should be ready to take further action if the executive's response is insufficient or if its recommendations are not followed up properly or with sufficient vigour.
- 3.11 We recommend that the Public Accounts Committee should meet regularly. The Committee should have the power to call committee Presidents, senior civil servants and expert witnesses to attend and to give evidence on the issues raised by the Auditor General's reports. The Committee should also be empowered to make recommendations to the States that would require a formal response from the executive.**

## **Audit Commission**

- 3.12 In this section we consider the role of the Audit Commission under the new audit structure we propose; whether the Commission has sufficient members to operate effectively in this role; whether the Audit Commission's members should be paid; and what qualifications and training its members might need.

### *Role*

- 3.13 In Part 2 we suggested two possible scenarios for the role of the Audit Commission under our proposed new audit structure. Our preferred approach is for the Audit Commission to merge with the proposed Public Accounts Committee. The members of the Audit Commission would then become the non-States members of the Public Accounts Committee, possibly with a non-States member as Chairman.
- 3.14 An alternative approach is for the Audit Commission to remain separate from the Public Accounts Committee and to become a supervisory board for the proposed new Auditor General. Under this approach the Audit Commission would be responsible for agreeing the Auditor General's budget and work programme and for reviewing the reports and other work of the Auditor General. The Audit Commission would, however, lose its current role of examining witnesses as this would be a key function of the Public Accounts Committee.

### *Number of members*

- 3.15 The Audit Commission is currently made up of four non-States Members and the President of the Advisory & Finance Committee. Any three members, including the Chairman or the Vice-Chairman, constitute a quorum. The small number of members has given rise to problems: it has created a very heavy workload for individual members, particularly the Chairman; it has sometimes been difficult to get a quorum; and it has not been practical to form sub-committees to look at particular issues.
- 3.16 To overcome these problems it would seem sensible to increase the current size of the Audit Commission to, say, six members. This would be right whatever role the Audit Commission were to have in the future. Indeed it would pave the way for the Audit Commission members subsequently to become the non-States members of the proposed Public Accounts Committee. Accordingly, **we recommend that the Audit Commission should be increased in size to, say, six members.**
- 3.17 Audit Commission members have suggested to us that no member should serve more than three terms of three years and no-one should stay on over the age of 70. This would seem to be a sensible rule whilst the Audit Commission remains in its present form. However, if the Audit Commission is to merge with the proposed Public Accounts Committee, the new committee will need to fall into line with whatever arrangements are agreed for other committees.

### *Remuneration*

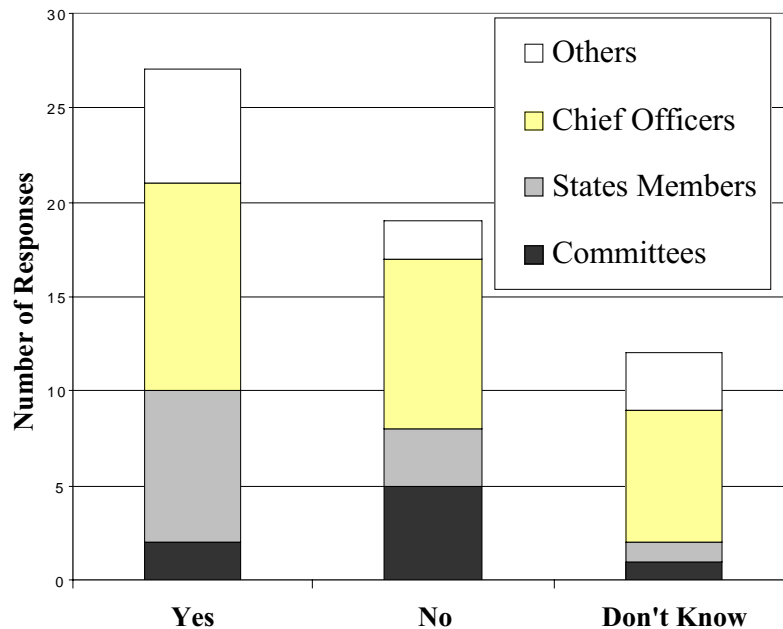
- 3.18 Members of the Audit Commission receive no remuneration for their service, but their reasonable expenses may be reimbursed at the discretion of the Advisory and Finance Committee. Members of the UK Audit Commission, the nearest equivalent overseas body, are paid on the basis of an assumed number of days' attendance. Members of the Guernsey Financial Services Commission also receive payment.
- 3.19 In our questionnaire<sup>10</sup>, we asked whether members of the Audit Commission should be paid for their services. The majority of States committees who responded were against payment. But amongst States members, chief officers and third parties who responded, there was a majority in favour of payment (Figure 9).
- 3.20 Views on this issue amongst interviewees were also divided, with a small balance in favour of Audit Commission members being paid. When people were asked what would be an appropriate figure, the general consensus was for a payment of around £5,000 a year. It was recognised that such a sum did not and was not meant to reflect the value of the work put in.

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<sup>10</sup> Q7 at Annex A to Appendix 2.



**Figure 9: Should members of the Audit Commission be paid for their services?**



3.21 In view of practice elsewhere and the balance of views in Guernsey, we consider that it would be quite appropriate for Audit Commission members to be paid and that a sum of £5,000 a year would not be unreasonable. However, **we recommend that payment of Audit Commission members should only be considered if the Commission is to remain in its present form.** As noted previously, if the Audit Commission is to merge with the proposed Public Accounts Committee, the new committee will need to fall into line with whatever arrangements are agreed for other committees.

### *Qualifications and training*

3.22 A minority of interviewees felt strongly that the Audit Commission should include a qualified accountant amongst its members. We do not consider this to be essential. The most important thing is that the Audit Commission should include a broad range of talents in Guernsey who, through their different experiences, will bring fresh insights and perspectives to audit matters. It is those undertaking the audits - the Auditor General, external auditors and the internal audit team - who need appropriate qualifications. By way of comparison, the members of the UK Audit Commission do not need to be qualified, although one member is in fact a qualified accountant.

3.23 It would seem sensible, nevertheless, for new members of the Audit Commission to receive induction training. This might cover, for example, how the States of Guernsey work, the business of the Audit Commission and its statutory responsibilities, and the audit regime and its objectives. New members of the UK Audit Commission receive induction training of this nature.

### **Auditor General**

3.24 In Part 2 we recommended that an Auditor General should be appointed to provide an independent focus for the examination of how public funds are used, safeguarded and accounted for. This section considers how an Auditor General might be appointed; what his terms of reference might be; what support staff and budget the Auditor General might need; and how the Auditor General's work should be appraised.



### *Appointment*

- 3.25 The post of Auditor General is prestigious and in most countries the appointee has the status and salary of a senior civil servant, law officer or lower court judge. In Scotland and Ireland, for example, the Auditor General is paid at the same rate as a senior civil servant, in Gibraltar he is graded at the same level as the Attorney-General, and in Bermuda and Canada, the Auditor General has the salary of a puisne judge.
- 3.26 In most countries, the Auditor General is appointed either by the legislature or the Head of State and can be dismissed only by them. The Auditor General's term of office, terms of reference and conditions of appointment are generally fixed by law. The term of office can be unspecified, have an age limit or be for a fixed number of years. The Auditor General can normally be dismissed only in exceptional circumstances, such as inability to perform functions through illness or incapacity; misbehaviour or irregular conduct; or conviction of a serious offence.
- 3.27 In Guernsey it would seem appropriate for the Auditor General to be an individual appointment of the States, similar to that of the utility regulator and the data protection commissioner. The appointment would initially be on the nomination of the Advisory & Finance Committee, but this responsibility should be transferred to the proposed Public Accounts Committee once it has been established. The terms and conditions of the appointment would need to be specified in legislation.
- 3.28 **We recommend that the Auditor General should be appointed by the States of Deliberation on the nomination of the Public Accounts Committee. The terms and conditions should be fixed in law and the salary set at a level to reflect the importance of the post.**

### *Terms of reference*

- 3.29 The way that the Auditor General's post is set up and the methods of operation should embody the Public Audit Forum's three principles of public audit<sup>11</sup>:
- (1) The independence of public sector auditors from the organisations being audited. In most countries the Auditor General has complete freedom to set his own priorities, although he is often required to consult the Public Accounts Committee or its equivalent. **We recommend that the Auditor General should have discretion in deciding upon his work programme and in exercising his functions, whilst paying due regard to statutory requirements; to the expectations of the States of Deliberation, the Public Accounts Committee and the public; and to professional standards.**
  - (2) The wide scope of public audit, covering the audit of financial statements, regularity, propriety and value for money. We have already recommended in Part 2 that the Auditor General should have responsibility for the appointment of the external auditors of the States accounts and that it also needs to be considered whether the Auditor General should formally sign off the States accounts. In addition to these responsibilities, **we recommend that the Auditor General's remit should also cover regularity, propriety and value for money audits. The Auditor General should also have a role in assessing the effectiveness of internal audit.**
  - (3) The ability of public auditors to make the results of their audits available to the public and to democratically elected representatives. Most heads of Supreme Audit Institutions present their audit reports and an annual report to the legislature. **We recommend that the Auditor General should be able to submit his reports direct to the States of Deliberation with the expectation that they are placed in the public domain.**

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<sup>11</sup> The Principles of Public Audit, October 1998.

- 3.30 Some suggested terms of reference for the Auditor General are set out in Figure 10. To meet the terms of reference the Auditor General will need to have appropriate qualifications and experience. In Guernsey the Auditor General would need to be directly involved in the audit work. As a minimum, therefore, the holder of the post should be a qualified accountant; have a good understanding of the workings of government and public administration; and have direct experience of financial and value for money audit in the public sector.

### *Support staff and budget*

- 3.31 To carry out the important work specified in the terms of reference at Figure 10, the Auditor General would need supporting staff and a budget. We have already recommended in Part 2 that a separate budget and staff complement should be earmarked for value for money work. We estimate that a personal assistant, a head of value for money audit, a value for money auditor, and an outsourcing budget would be necessary to achieve an effective level of coverage. This level of resources should be sufficient to meet the full requirements of the terms of reference and enable the Auditor General to deliver a minimum of five or six value for money reports each year.

**Figure 10: Suggested terms of reference for the Auditor General**

To examine the economy, efficiency and effectiveness with which States committees and other public bodies have used their resources in discharging their functions.
To examine risks to regularity, propriety, the conduct of public business and corporate governance and other issues of audit interest or concern in States committees and other public bodies.
To be responsible for the audit of the States accounts, to appoint the external auditors of the States accounts and to ensure that their work is carried out to appropriate professional standards.
To review the effectiveness of States internal audit to ensure that it meets appropriate professional standards.
To report to the States of Deliberation on the results of audit examinations and reviews, without questioning the merits of the policy objectives of States committees or other bodies under review.
To provide constructive advice to States committees and other public bodies to enable them to improve their management of public funds.
To consult the Public Accounts Committee about the programme of reviews and examinations to be undertaken (but not to be subject to the Committee's direction).
To supply the Public Accounts Committee with information and briefing to enable the Committee to carry out its scrutiny role effectively.
To provide responses to questions from Members of the States of Deliberation and the public about audit-related matters.
To report annually to the States of Deliberation on the discharge of the Auditor General's functions.

- 3.32 We consider it important to have a mixture of in-house staff and outside consultants to conduct value for money and other examinations. In-house expertise is necessary in order to build a proper understanding of the way States committees function and deliver public services and the risks to value for money involved. This sort of understanding is essential when conducting effectiveness studies as to whether States committees are meeting their objectives for delivering services. It would also be necessary to draw on private sector consultants where they have particular expertise, for example, in specialist areas such as information technology where it would not be cost-effective to develop expertise in-house.

- 3.33 We estimate that the basic cost of the Auditor General's office, excluding overheads, would be around £400,000 a year. This is a broad brush figure and is very much dependent on the level of the Auditor General's salary, the grading and numbers of supporting staff, and the amount of the outsourcing budget. There would be some savings to offset this cost, such as the Audit Commission's current outsourcing budget of £40,000 and the cost of the internal audit staff who support the Audit Commission.
- 3.34 We compared this estimate with the costs of audit offices in other small jurisdictions. The comparison suggests that a cost of £400,000 in Guernsey would not be excessive; it is below the cost of the audit offices in all four jurisdictions we looked at (Bermuda, Gibraltar, Iceland and Malta<sup>12</sup>), although the comparison has to be treated with caution since the audit offices have varying remits and the populations of the countries are different.
- 3.35 To carry out the work specified in the terms of reference, **we recommend that the Auditor General is provided with a small supporting staff and an outsourcing budget, at a basic cost of around £400,000 a year.**
- 3.36 In most countries the Auditor General's budget is examined by a committee of the legislature, either the Public Accounts Committee or a special committee set up for the purpose. The committee then forwards it to the legislature for approval. **We recommend that the Public Accounts Committee should review the Auditor General's budget and present it to the States for approval.**

### *Appraisal*

- 3.37 The Auditor General's office in many countries is subject to external review. For example, the accounts of many audit offices are audited by private sector firms. Some audit offices are subject to peer review by other audit offices. The reports of the UK National Audit Office are subject to several forms of assessment, including the views of the bodies subject to examination and external assessment by academic specialists. The UK National Audit Office also measures the impact of its work and has a target to save £8 for every £1 it spends.
- 3.38 It will be important for the Auditor General in Guernsey to be able to demonstrate to the States and to the public that his work has added value and is cost-effective. To do so the Auditor General will need to devise appropriate measures of performance, set targets for performance and report annually to the States on the achievement of those targets. **We recommend that the Auditor General should adopt appropriate measures of performance and targets to demonstrate that the work of the Auditor General's office is cost-effective and adds value. The Auditor General should also from time to time, say every three to five years, invite another audit office to undertake a peer review of his work.**

### *Internal Audit*

- 3.39 In Part 2 we recommended that the internal audit department should continue to report to the States Treasurer, with a route to the Advisory and Finance Committee in the event of a conflict of interest with the States Treasurer. This section of the report considers how the internal audit department might operate under the new arrangements. It examines the focus of internal audit work and compares it with best practice. It also looks at the staffing and budget of the internal audit department and how the work of internal audit should be appraised.

### *Focus of internal audit work*

- 3.40 It is the responsibility in Guernsey of each States committee to identify and install a system of internal controls, including financial control, which is adequate for its own purposes. Committees are

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<sup>12</sup> The Isle of Man and Jersey do not at present have Auditor General's offices, although Jersey is considering setting one up.

responsible for safeguarding the assets of the States of Guernsey in their care and for taking reasonable steps for the prevention and detection of fraud and other irregularities. It is internal audit's responsibility to review, appraise and report upon the soundness, adequacy and application of those internal controls.

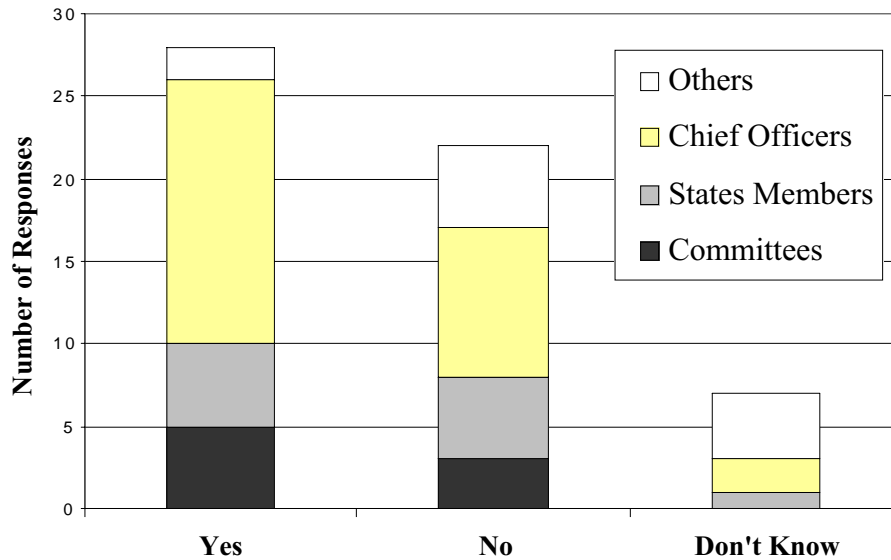
- 3.41 The Audit Commission reported in 1999<sup>13</sup> that there had been a significant improvement in the financial procedures and level of internal controls in the States over the previous five years or so. Some committees had shown a dramatic improvement in that time. However, this had been from a very low base. In certain areas some committees' financial procedures and controls were inadequate or completely absent. The standard and quality of financial procedures and internal controls varied considerably between committees. Only in a few areas could financial matters be considered to be in line with best practice.
- 3.42 As a result, much of internal audit's work in recent years has focused on examining basic financial controls. The aim has been to perform audits of all committees on a rolling basis. Some small committees are audited only once every three years, whereas other larger committees, such as the Board of Health, may be visited many times in one year, because of the large number of areas to be examined. Internal audit's approach has been to document and assess the systems and procedures within each committee. Any gaps, weaknesses or deficiencies are identified in a report to the committee concerned.
- 3.43 The Director of Audit Services (as Head of Internal Audit) estimates that the internal audit team is managing to achieve about 80 to 90 per cent of the basic compliance work required on internal financial controls. Some key operational controls, such as fire prevention and health and safety, are also examined. However, work on other aspects of the internal audit department's current remit – such as systems development testing and value for money audits – has had to be curtailed to enable basic control work to be addressed.
- 3.44 We asked about this basic control work in our questionnaire<sup>14</sup>. A majority of respondents considered that the amount of internal audit work undertaken was sufficient to provide adequate assurance about internal financial controls within the government of Guernsey (Figure 11). However, a significant minority thought that the amount of internal audit work undertaken was not enough to provide such assurance.
- 3.45 We asked interviewees about the standard of internal audit work in the States. Views were mixed on this issue. Some people commented that internal audit do a good, professional job. Reports are well presented and well organised. Some said that the standard of work was improving. One committee President commented on how supportive internal audit had been on a particular issue. Some interviewees were concerned, however, that internal audit tended to focus too much on low level areas and detail. Some thought internal audit was too pre-occupied with process and did not concentrate sufficiently on the high level controls that mattered.
- 3.46 Latest best practice advice in the UK<sup>15</sup> recommends that internal audit should provide an independent and objective opinion on risk management, control and governance in an organisation. Risk management, control and governance comprise the policies, procedures and operations established to ensure the achievement of objectives, the appropriate assessment of risk, the reliability of internal and external reporting and accountability processes, compliance with applicable laws and regulations, and compliance with the behavioural and ethical standards set for the organisation. Audit work designed to deliver an opinion on the risk management, control and governance of an organisation is referred to as “assurance work” because management use the audit opinion to derive assurance about the effectiveness of their controls.

<sup>13</sup> Audit Commission Annual Report, January 1999

<sup>14</sup> Q9 at Annex A to Appendix 2.

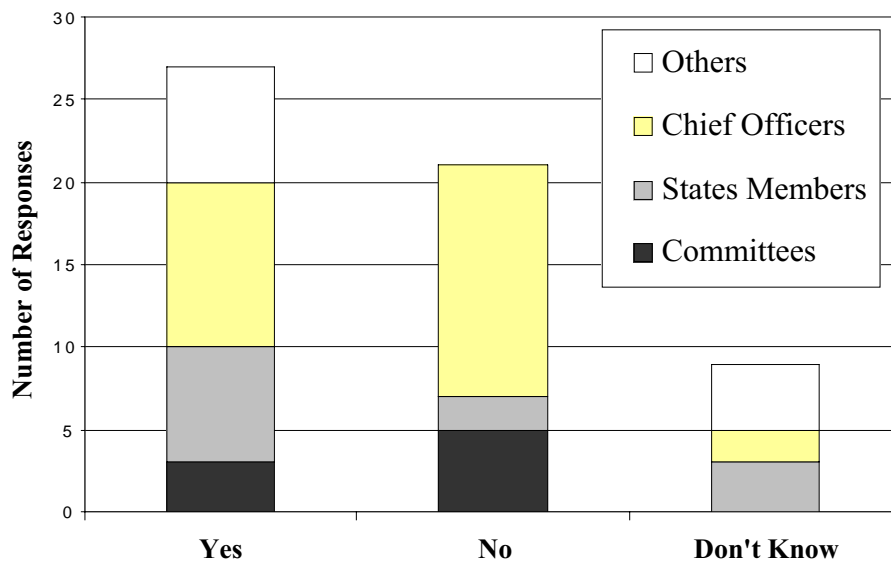
<sup>15</sup> UK Government Internal Audit Standards, July 2001.

**Figure 11: Is the amount of internal audit undertaken sufficient to provide adequate assurance about the adequacy of internal financial controls?**



3.47 We asked in our questionnaire<sup>16</sup> about extending internal audit's remit to cover operational controls and risk management as well as financial controls. A slim majority of respondents were in favour of extending internal audit's remit in this way (Figure 12).

**Figure 12: Should the remit of the internal audit department be extended to cover operational controls and risk management as well as financial controls?**



<sup>16</sup> Q10 at Annex A to Appendix 2.

- 3.48 The Director of Audit Services is keen for internal audit to provide a comprehensive assurance function, covering operational controls and risk management as well as financial controls. Many interviewees were supportive of a move in this direction. Others cautioned, however, that it was essential to ensure that basic controls were in place before considering higher level risks. One committee commented that, although internal controls were improving, it would be some time before internal audit could provide assurance about their adequacy. It would therefore be premature to extend internal audit's remit to cover broader areas such as operational and risk management issues. Nonetheless, the committee recognised the importance of these areas and the desirability that they should be addressed.
- 3.49 We strongly believe that internal audit should not confine its coverage to financial controls, important though these are. Best practice suggests the adoption of a holistic approach: the provision of a comprehensive assurance that extends beyond financial controls to embrace risk management, operational controls and corporate governance. The time that internal audit devotes to each of these will largely depend on what committees have done to establish policies and monitoring arrangements in the different areas and how effective internal audit judges these to be. In short, internal audit will need to assess strengths and weaknesses and prioritise its work accordingly. One area should not be examined to the exclusion of the others.
- 3.50 We recommend that the principal aim of internal audit in Guernsey should be to provide a comprehensive assurance function, covering risk management, financial and operational controls, and corporate governance. The priority accorded to each of these areas should be determined in the light of an assessment by internal audit of their relative strengths and weaknesses.**
- 3.51 Part of internal audit's role should be to assist committees with their risk assessment and risk management strategies, their corporate governance arrangements and their systems of internal control. **We recommend that internal audit should work closely with States committees to improve risk management, control and corporate governance arrangements.**
- 3.52 Suggested revised terms of reference for internal audit covering these aspects are set out in Figure 13.

**Figure 13: Terms of reference for internal audit**

Current terms of reference	Suggested revised terms of reference
Perform internal audit reviews of all States committees and interests to ensure that States assets and finances are safeguarded and used effectively, economically and efficiently.	Develop and maintain a strategy for providing States committees with an objective evaluation of the effectiveness of risk management, control and governance arrangements.
Perform value for money reviews of States committees, interests and functions on behalf of the Audit Commission.	Perform internal audit reviews to ensure that risk management, control and governance arrangements are effective in meeting States objectives and safeguarding States assets and finances.
Report on the state of internal controls within States interests to the relevant committee President and to the Audit Commission.	Report on risk management, control and governance arrangements to the relevant committee President and copy to the Auditor General.
	Assist States committees to improve risk management, control and governance arrangements.
Report to the Advisory & Finance Committee any non-compliance with States accounting standards and guidelines.	Unchanged

Identify for the Advisory & Finance Committee any areas where accounting guidance is required.	Unchanged
Assist in the training of future senior finance staff.	Unchanged

### *Staffing and budget of the internal audit department*

3.53 The internal audit team comprises the Director of Audit Services plus four full-time and two part-time staff (Figure 14). The total complement is six full-time equivalent staff. The team is therefore, for the first time in some years, now fully up to strength.

**Figure 14: Staff of the Internal Audit Department, November 2001**

Title of Post	Grading of Post	Audit Experience	Accountancy/Audit Qualifications
Director of Audit Services	SO6	4 years external audit, 5 years internal audit (ICI plc and States)	ACA, Affiliate Member IIA-UK, AIRM
Internal Audit Manager	SO3	3 years external audit, 7 years internal audit (outside States)	MIIA
Audit Supervisor	EG5/SO1	2 years States internal audit	Undergoing CIPFA certification stage
Trainee Accountant	AA1/EG5	8 months States internal audit	Studying for CAT
Trainee Accountant	AA1/EG5	3 months States internal audit	Studying for CAT
Auditor (part-time)	EG2	2 months States internal audit	AAT
Administrative Assistant (part-time)	AA2	None	None

3.54 A number of the people we interviewed felt that problems with the standard of internal audit work in the past had arisen because of a lack of adequate staff resources and an over-reliance on young and very inexperienced trainees to do the work. With a more settled team and with management and supervisory posts now fully staffed, it is to be hoped that these earlier difficulties can be overcome.

3.55 The internal audit department has a base budget of £390,000 for 2002 (Figure 15). In addition the department is allowed to carry forward unspent balances from the previous year, expected to amount to some £250,000 in 2002. At present this money can only be spent on contracted-out services as there is a States-wide cap on increases in staff complements.

**Figure 15: Budget of the Internal Audit Department, 2002**

	Cost £
Staff salaries and superannuation	212,000
Contracted-out services	140,000 <sup>17</sup>
Administration and training costs	38,000
<b>Total</b>	<b>390,000</b>

<sup>17</sup> Excludes £40,000 for contracted-out services for the Audit Commission, which is included within the internal audit department's budget.



3.56 Even though the internal audit department in Guernsey is now up to strength, the number of internal audit staff in Guernsey is still only around half the numbers employed in both the Isle of Man and Jersey. The internal audit budget in Guernsey is also substantially less than that in the Isle of Man and Jersey.

3.57 On the face of it, the staffing of the internal audit department in Guernsey is below what is necessary, measured against the greater expectations of a modern internal audit and against the resources employed in similar-sized jurisdictions like the Isle of Man and Jersey. However, it is difficult at this stage to assess what would be an appropriate level of staffing. There are three uncertainties which are likely to impact on the future staffing requirement:

- ❑ Internal audit is only just recently up to strength. For many years it has been short of complement and has not had people in key grades. Until staff changes have bedded down it is not possible to say how far these changes will enable the department to meet its current remit.
- ❑ The suggested extension of the internal audit's remit to provide a comprehensive assurance framework. Until internal audit has been able to develop a strategy for addressing this issue it will not be possible to assess any staffing implications.
- ❑ The large unspent balance available for contracted-out services. This may go some way to addressing any shortfalls in meeting the current or extended remit.

3.58 Until these matters have been clarified we consider that the internal audit department should be maintained at its current strength. When this has been done, **we recommend that the staffing and budget of the internal audit department should be reassessed in the light of recent staff changes, the extension of internal audit's remit to provide a comprehensive assurance function and the available budget for contracted-out work.**

### *Appraisal of internal audit*

3.59 It is good practice for internal audit to be subject to internal and external quality assessments. This should include a package of measures and targets as an aid to appraising performance.

3.60 The Director of Audit Services sends a feedback questionnaire asking auditees to grade the quality of service provided by the Internal Audit Department under a range of categories, such as the usefulness and quality of the report and its recommendations and the communication and conduct of the audit team. Each category is graded on a points scale ranging from 1 (Poor) to 4 (Excellent). Of the total points attainable, the average score achieved throughout 2000 was a creditable 76 per cent.

3.61 These feedback questionnaires need to be augmented with further quality mechanisms. To this end **we recommend that appropriate performance measures and targets should be devised to demonstrate the efficiency and effectiveness of internal audit's work.** Examples of the sorts of performance measures that might be considered are:

- ❑ audits completed as a percentage of audits planned;
- ❑ cost of audits compared with budget;
- ❑ percentage of recommendations accepted;
- ❑ percentage of recommendations implemented within a certain timeframe;
- ❑ cash savings achieved.

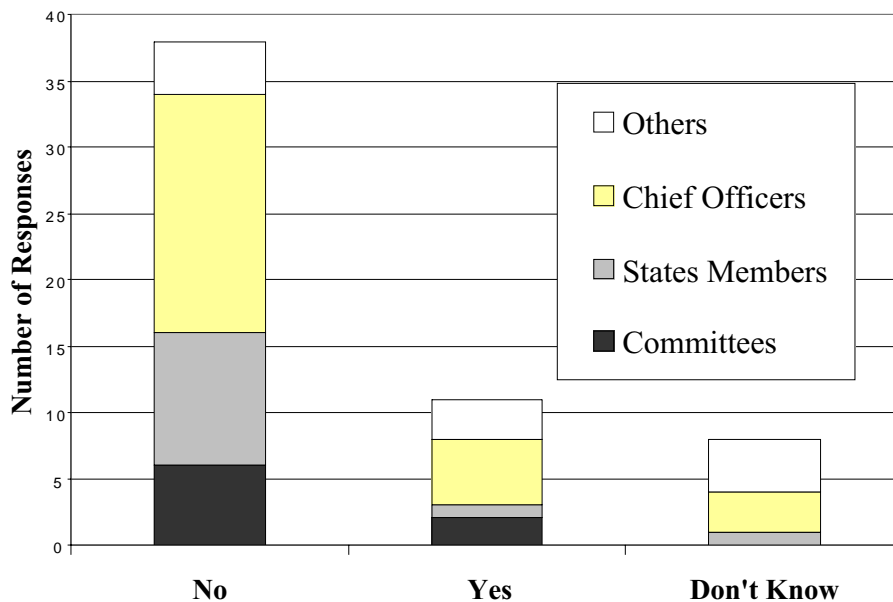
3.62 External quality reviews should be undertaken by the Auditor General as recommended earlier.



## Audit Committees

- 3.63 In many large countries it is standard practice for each department of state to appoint an audit committee of three to five members to oversee its internal control procedures and audit arrangements. An audit committee's main functions will generally be to review the mechanisms for the assessment and management of risk; the plans and results of internal and external audit; the adequacy of management responses to audit findings; and the assurances relating to corporate governance requirements. An audit committee can strengthen the audit process by ensuring that appropriate action is taken by management in response to audit recommendations.
- 3.64 At present none of the States committees in Guernsey have formal audit sub-committees. In our questionnaire<sup>18</sup> we asked whether it was necessary for the main States committees to have their own audit committees. A large majority of respondents felt that this was not necessary (Figure 16).
- 3.65 Most interviewees were also not in favour of separate audit committees. Many felt that, although there was some merit in the principle of audit committees, Guernsey was too small to justify the additional bureaucracy involved. One committee President considered that it would be more sensible to deem his committee on certain sittings to be an audit committee.
- 3.66 Audit committees are a useful way of ensuring that audit matters receive appropriate consideration and that action is taken to address control weaknesses found as a result of audit work. We agree, however, with the majority of respondents that it would not be appropriate to make audit committees a mandatory requirement in Guernsey. Nevertheless, **we recommend that the largest States committees should consider whether an audit sub-committee might be appropriate in their particular circumstances. Alternatively, the committee might wish to sit as an audit committee from time to time.**

**Figure 16: Is it necessary for the main States committees to have their own audit committees?**



<sup>18</sup> Q12 at Annex A to Appendix 2.

## Part Four: Rights of Audit Access

- 4.1 This part of the report compares the current rights of audit access of the Audit Commission and Internal Audit with best practice. It considers the case for extending rights of access to various types of body in receipt of public funds. It makes recommendations for changes to the access arrangements and considers how the revised arrangements might operate in practice.

### Principles of Audit Access

- 4.2 The Lima Declaration<sup>19</sup> states that all public financial operations should be subject to audit by Supreme Audit Institutions. It also states that Supreme Audit Institutions should be empowered to audit the use of subsidies granted from public funds. Commercial enterprises should be subject to audit if the government has a substantial participation in them or exercises a dominating influence.
- 4.3 The Sharman report<sup>20</sup> defined public money for accountability purposes as “All money that comes into the possession of, or is distributed by, a public body, and money raised by a private body where it is doing so under statutory authority”. The Sharman report said that there is a need for public accountability for grants and subsidies to ensure that it has been spent properly and value for money achieved. The report also stated that where a private sector body receives public money or performs a function on behalf of a public body it is subject to public accountability. That accountability should be limited to that money and to the activities financed publicly and not to money from other sources or entirely private activities.
- 4.4 Many countries already follow the principles of the Lima Declaration. Some 96 out of 113 Supreme Audit Institutions who responded to an INTOSAI<sup>21</sup> questionnaire stated that they audited state corporations and autonomous agencies. In the European Union, public bodies carrying out the tasks of government are audited by almost all Supreme Audit Institutions. The accounts of some or all state enterprises are audited by the Supreme Audit Institutions in 11 European Union countries. In Finland and the UK the Supreme Audit Institution is able to examine the regulatory bodies established to oversee former state industries.
- 4.5 In our questionnaire<sup>22</sup> we asked respondents about their support for the principles in the Lima Declaration. A majority of respondents considered that the Audit Commission should have powers of access to audit the affairs of all entities where public funds are involved (Figure 17).
- 4.6 Amongst interviewees there was also strong support for the principle of the auditor following public money wherever it goes. A number of people, however, had strong reservations about the Audit Commission having rights of access to the newly commercialised States trading companies (see below).

### Types of body

- 4.7 We have identified four different types of body in Guernsey where the question of rights of audit access needs to be considered in the light of the Lima Declaration. The different types of body are set out in Figure 18, along with our recommendation as to whether or not access is appropriate in principle. The reasons for our recommendations are given below. The recommended rights of access would apply to the Audit Commission, the Auditor General and Internal Audit.

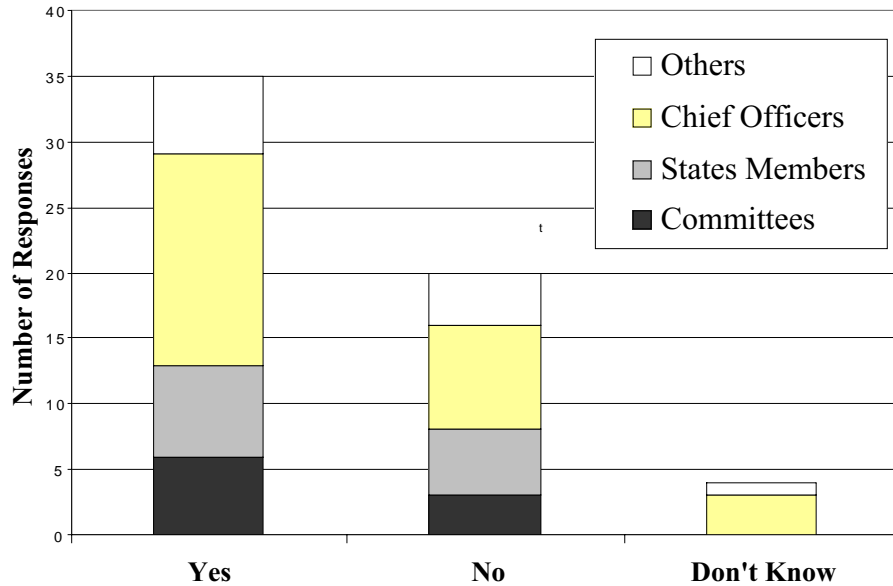
<sup>19</sup> The Lima Declaration of the International Organisation of Supreme Audit Institutions, 1977.

<sup>20</sup> Holding to Account, The Review of Audit and Accountability for Central Government, Report by Lord Sharman of Redlynch, February 2001.

<sup>21</sup> International Organisation of Supreme Audit Institutions.

<sup>22</sup> Q6 at Annex A to Appendix 2.

**Figure 17: Should the Audit Commission have powers of access to audit the affairs of all entities where public funds are involved?**



**Figure 18: Access to bodies handling public money**

Type of body	Suggested access principle
States bodies and committees	Rights of access should normally be automatic
States-funded non-States bodies Grant recipients Contractors providing a service	Rights of access should be a condition of funding
Regulators	Rights of access should be enshrined in legislation
States Trading Companies	Rights of access are only necessary as a long stop

4.8 Examples of some bodies handling public funds, together with current and proposed rights of access, are set out in Figure 19.

### *States bodies and committees*

4.9 Most public revenues, public expenditure and States assets in Guernsey are handled by States committees or States bodies. This is where the main focus of internal and external audit is likely to be at any time. Access to States committees and bodies should normally be allowed automatically, subject to the usual courtesies as regards proper notice and consultation.

### *Non-states bodies receiving public funds*

4.10 A number of non-States bodies, such as the St John Ambulance and the Guilles-Alles Library, and a number of contractors receive substantial public funds for providing a service to the public on behalf of the States. Some non-States bodies, such as the Elizabeth and Ladies' Colleges, receive grants from the States. It is important that government auditors have access to the books and records of

these bodies to ensure that the money is being used for the purposes intended by the States. Auditors may also want to examine whether conditions attached by the States to the funding are being complied with. Where a service is being provided, auditors may want to examine whether the States are receiving value for money.

- 4.11 As noted in Figure 19, the Audit Commission and Internal Audit do not currently have rights of access to some of these bodies whilst in other cases the position is unclear. **We recommend that rights of audit access to non-States bodies receiving public funds should normally be a condition of funding.**

**Figure 19: Examples of non-States bodies handling public money**

Body	Type	Income or Turnover in 2000 £	States Funding in 2000 £	Levy Funding in 2000 £	Access for Audit Purposes	
					Current position	Pro-posed
St John Ambulance	States-funded non-states body	N/A	1,080,000	-	Yes <sup>23</sup>	Yes
Guille-Alles Library	States-funded non-states body	N/A	1,037,000	-	Yes <sup>24</sup>	Yes
Guernsey Training Agency	States-funded non-states body	N/A	163,000	164,000 <sup>25</sup>	Yes	Yes
Housing Association	States-funded non-states body	-	-	-	No	Yes
Elizabeth College	Grant recipient	2,627,000	1,605,000	-	Not tested	Yes
Ladies' College	Grant recipient	2,087,000	1,138,000	-	Not tested	Yes
Medical Specialist Group Clinic	Contractor	N/A	5,669,000	-	No	Yes
Eye Clinic	Contractor	N/A	514,000	-	No	Yes
Guernsey Physiotherapy Group	Contractor	N/A	306,000	-	No	Yes
Guernsey Financial Services Commission	Regulator	3,476,000	400,000	3,069,000	Yes	Yes
Office of Utility Regulation	Regulator	-	-	-	No	Yes
Guernsey Telecoms	States Trading Company	29,840,000	-	-	No	Long stop
Guernsey Post	States Trading Company	12,560,000	-	-	No	Long stop

<sup>23</sup> Subject to confirmation by the States (Policy Letter, November 2001).

<sup>24</sup> By invitation.

<sup>25</sup> Through the Guernsey Financial Services Commission.

## *Regulators*

- 4.12 There are two independent regulatory bodies in Guernsey: the Guernsey Financial Services Commission and the Office of Utility Regulation. Since these bodies perform a statutory function and are funded principally by compulsory levies on the firms they regulate, we consider that government auditors should have rights of access to their books and records. This would enable auditors to examine whether the bodies are using their levy income appropriately to meet their statutory objectives and with due regard to value for money. This would provide assurance to the States, the public and the regulated firms that levy income is being spent wisely. Such independent assurance would not be available from any other source.
- 4.13 The Audit Commission currently has rights of audit access to the Guernsey Financial Services Commission but not to the Office of Utility Regulation. This anomaly should be corrected. **We recommend that rights of audit access to statutory regulators should be enshrined in legislation.**

## *States Trading Companies*

- 4.14 Since 1 October 2001 postal and telecommunications services have been provided by States Trading Companies, set up as limited liability companies wholly owned by the States. Electricity services are likely to follow suit in 2002. The States are a 100 per cent shareholder in the States Trading Companies, although a strategic equity partner is currently being sought to take a controlling interest in Guernsey Telecoms.
- 4.15 There are two main mechanisms for ensuring that the States Trading Companies continue to provide the service required by the States:
- ❑ The Advisory & Finance Committee, on behalf of the States as majority shareholder, has powers to obtain information, to set financial targets and to appoint the external auditors of the companies' accounts. The Advisory & Committee would also have the ability to send in auditors to examine certain aspects if it was not satisfied with the information it had received.
  - ❑ The utility regulator has statutory duties as regards setting price controls, countering anti-competitive behaviour and monitoring the quality of service provided by the companies.
- 4.16 The first port of call for government auditors should be to ensure that the Advisory & Finance Committee is acting as an intelligent shareholder and that the utility regulator is carrying out its statutory duties effectively. Only in the extreme case where these two organisations were not doing their jobs effectively and were disinclined to take action to improve the situation would there be a need for government auditors to go into the companies and have a look for themselves.
- 4.17 In principle government auditors should have rights of audit access to the States Trading Companies so long as the States have a controlling interest. In practice, however, the auditors' responsibility might more readily be discharged by examining the effectiveness of the Advisory & Finance Committee in acting as an intelligent shareholder and the utility regulator in regulating the companies. Nevertheless, **although we consider that rights of audit access to States Trading Companies where the States have a controlling interest might only rarely, if ever, need to be exercised, we recommend that such rights of access should be available as a necessary long stop.**

## *Operating the access arrangements*

- 4.18 It is an important principle that government auditors should be able to follow public money wherever it goes. But such strong rights also carry heavy responsibilities. The auditor has a duty to ensure that access powers are not used disproportionately. Arrangements therefore need to be agreed about how access rights will be exercised in practice so that the potential for misunderstandings is eliminated from the outset.

### *Materiality*

- 4.19 Access rights do not have to be exercised simply because they exist. Government auditors, whether undertaking internal audit or value for money work, should base their strategies on a broad evaluation of risk covering all public money. Access rights to non-States bodies should be exercised only where merited and after due consideration of other competing priorities.
- 4.20 We do not consider that it would be sensible to introduce a de minimis level of public funding below which government auditors would not have access rights to the bodies concerned. This would be difficult to operate in practice. But more importantly it does not recognise that audit interest will often depend on how the money has been used. For example, a small grant used fraudulently is likely to be of considerable public concern whereas a much larger grant spent for the purposes intended may be of much less interest. In the normal course of events, however, bodies receiving small amounts of States funding are unlikely to be of interest to government auditors for the reasons given in the previous paragraph.

### *Reliance on the body's own auditors*

- 4.21 Exercise of access rights should be appropriate to the circumstances of the particular body. It should be influenced by what audit arrangements the body has in place and by any monitoring being undertaken by other agencies. For example, the States Internal Audit Department should in the first instance seek to rely on the body's own internal audit function if it has one. Only if this is lacking or ineffective or if its coverage is incomplete might the States Internal Audit Department need to carry out its own checks.
- 4.22 Some bodies will be monitored by regulators or inspection agencies. Government auditors would need to take account of the plans and results of these monitoring agencies before deciding whether to undertake any value for money work on the bodies themselves. This would influence the decision whether or not to exercise access rights.

### *Protocols*

- 4.23 One way of ensuring that there are proper arrangements for the exercise of access rights is to agree protocols between the auditors and the bodies concerned. A standard protocol should be prepared which would form a template for discussions with individual bodies. Protocols could then be agreed on a case by case basis to reflect individual circumstances. The following sorts of issues might be covered in the protocol:
- ☐ a statement of the purpose of the protocol and what is covered by it;
  - ☐ the arrangements for notification of the audit and discussion of the work proposed;
  - ☐ the facilities for access to books, records and persons;
  - ☐ liaison and co-operation;
  - ☐ the handling of issues arising;
  - ☐ the arrangements for reporting the results of the audit.
- 4.24 Access rights carry responsibilities. They should not be exercised automatically and without proper consideration of need and competing priorities. Care also needs to be taken to avoid potential misunderstandings. **We recommend that auditors and the bodies involved should agree protocols setting out the arrangements for the exercise of rights of access.**

**Statement of Rôle and Responsibilities of the Internal Audit Department**

As set out in Billet d'État XI, May 1999 "it is the responsibility of each States committee to identify and install a system of internal controls, including financial control, which is adequate for its own purpose. Thus committees are responsible for safeguarding the assets of the States of Guernsey in their care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities. Every States committee is also responsible for the economical, efficient and effective management of public funds and other resources entrusted to it."

The States Treasurer shall have responsibility for maintaining an effective Internal Audit Department to provide a comprehensive assurance function which includes a responsibility to review, evaluate and report upon the soundness, adequacy and application of States committees' internal controls including, but not exclusively, those in relation to financial processes, operations and controls.

The Internal Audit Department shall include all States' interests and shall have authority to:

- Enter at all reasonable times upon any States premises or land subject to consultation with the appropriate Official.
- Have access to all records (documents, correspondence, computer records etc.) relating to any financial transactions or containing matters which may have an impact on the finances, reputation or the effective and efficient operation of the States. The right of access shall be subject to any applicable legal controls and restrictions and, furthermore, where the information involved is of a sensitive nature, the appropriate Official will be consulted as to the manner in which access is to be given.
- Require and receive such explanations from any States employee as are necessary concerning any matter under examination.
- Require any States employee to produce cash, stores or any other States property or documentation or records of any type under his control.

The States are asked to decide:—

X.—Whether, after consideration of the Report dated the 22nd August, 2002, of the States Advisory and Finance Committee, they are of opinion:—

1. That the membership of the States Audit Commission shall be 6 persons, all elected by the States from persons nominated by the States Advisory and Finance Committee who are not members of the States.
2. That members of the States Audit Commission shall be entitled to receive remuneration as determined by the States Advisory and Finance Committee from time to time.
3. To direct the preparation of such legislation as may be necessary to give effect to their decisions on Propositions 1. and 2. above.
4. To note the intention of the States Advisory and Finance Committee to report back as soon as possible on the results of its detailed investigations into the formation of an Auditor General's Office.
5. To approve the Statement of Rôle and Responsibilities of the Internal Audit Department as set out in Appendix II attached to that Report.



**STATES ADVISORY AND FINANCE COMMITTEE****THIRTEENTH PROTOCOL TO THE EUROPEAN CONVENTION FOR THE PROTECTION  
OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

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

29th August, 2002.

Dear Sir,

**THIRTEENTH PROTOCOL TO THE EUROPEAN CONVENTION FOR THE  
PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

On the 25th February, 1987 the States resolved, inter alia that “where the terms of any international agreement appear to the States Advisory and Finance Committee to involve questions of human rights and fundamental freedoms, or matters which, in the opinion of the States Advisory and Finance Committee are likely to be considered controversial, the terms of the proposed agreement shall be laid before the States”.

The European Convention for the Protection of Human Rights and Fundamental Freedoms provides that certain basic rights and freedoms should be secured. These include the right to life; freedom from torture or inhuman or degrading treatment or punishment; freedom from slavery or compulsory labour; the right to liberty and security of person; fair trials in the matter of civil rights; respect for private and family life; freedom of thought, conscience and religion, freedom of expression and association; and peaceful assembly.

The Convention was extended to the Island in 1953, subject to the same reservations as were made by Her Majesty’s Government on ratification of the Convention.

On the 28th October, 1998 the States resolved to request H.M. Government to extend the Sixth Protocol to the Bailiwick. The object of that Protocol is to abolish the death penalty but it allows the death penalty in respect of acts committed in time of war or of imminent threat of war.

The text of the 13th Protocol to the Convention is annexed as Appendix 1 and an explanatory report is attached as Appendix 2.

The object of the Protocol is to abolish the use of the death penalty in all circumstances, including for crimes committed in time of war and under the imminent threat of war.

The 13th Protocol was signed by the United Kingdom on 3rd May, 2002 and the Bailiwick authorities have been asked to consider whether it should be extended to Guernsey, Alderney and Sark.

Capital punishment for murder was abolished by the Homicide (Guernsey) Law, 1965. H. M. Procureur has advised that "Given that the United Kingdom, which is responsible for our defence accepts the new Protocol, I can see no reason why the Bailiwick should not follow suit."

Once the Protocol has been ratified and has come into force it is understood that the United Kingdom authorities intend to make an order including it within the Human Rights Act. If the States agree that the Protocol should be extended to Guernsey the Committee proposes, at the appropriate time, to make a similar order under Article 1 (4) of the Human Rights (Bailiwick of Guernsey) Law, 2000.

The authorities in Alderney and Sark will each be considering whether they wish the Protocol to be extended to those Islands.

The Advisory and Finance Committee recommends to the States that Her Majesty's Government be requested to make a declaration to extend the provisions of the 13th Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms to Guernsey.

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

Yours faithfully,

L.C. MORGAN,

President,  
States Advisory and Finance Committee.

**Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the Abolition of the Death Penalty in all circumstances**

**[Vilnius, 3.V.2002]**

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The member States of the Council of Europe signatory hereto,

Convinced that everyone's right to life is a basic value in a democratic society and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings;

Wishing to strengthen the protection of the right to life guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention");

Noting that Protocol No. 6 to the Convention, concerning the Abolition of the Death Penalty, signed at Strasbourg on 28 April 1983, does not exclude the death penalty in respect of acts committed in time of war or of imminent threat of war;

Being resolved to take the final step in order to abolish the death penalty in all circumstances,

Have agreed as follows:

**Article 1 – Abolition of the death penalty**

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

**Article 2 – Prohibition of derogations**

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

**Article 3 – Prohibition of reservations**

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.

**Article 4 – Territorial application**

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

### **Article 5 – Relationship to the Convention**

As between the States Parties the provisions of Articles 1 to 4 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

### **Article 6 – Signature and ratification**

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

### **Article 7 – Entry into force**

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 6.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

### **Article 8 – Depositary functions**

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. any date of entry into force of this Protocol in accordance with Articles 4 and 7;
- d. any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Vilnius, this 3rd day of May 2002, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

## **Explanatory Report to**

### **Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances**

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*(as adopted by the Committee of Ministers on 21 February 2002)*

The text of the Explanatory Report to Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances does not constitute an instrument providing an authoritative interpretation of the text of this Protocol although it may facilitate the understanding of the Protocol's provisions.

#### **Introduction**

1. The right to life, “an inalienable attribute of human beings” and “supreme value in the international hierarchy of human rights” is unanimously guaranteed in legally binding standards at universal and regional levels.
2. When these international standards guaranteeing the right to life were drawn up, exceptions were made for the execution of the death penalty when imposed by a court of law following a conviction of a crime for which this penalty was provided for by law (cf., for example, Article 2, paragraph 1, of the European Convention on Human Rights (hereinafter: “the Convention”)).
3. However, as illustrated below, there has since been an evolution in domestic and international law towards abolition of the death penalty, both in general and, more specifically, for acts committed in time of war.
4. At the European level, a landmark stage in this general process was the adoption of Protocol No. 6 to the Convention in 1982. This Protocol, which to date has been ratified by almost all States Parties to the Convention, was the first legally binding instrument in Europe - and in the world - which provided for the abolition of the death penalty in time of peace, neither derogations in emergency situations nor reservations being permitted. Nonetheless, under Article 2 of the said Protocol, “A State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war”. However, according to the same article, this possibility was restricted to the application of the death penalty in instances laid down in the law and in accordance with its provisions.
5. Subsequently, the Parliamentary Assembly established a practice whereby it required from States wishing to become a member of the Council of Europe that they committed themselves to apply an immediate moratorium on executions, to delete the death penalty from their national legislation, and to sign and ratify Protocol No. 6. The Parliamentary Assembly also put pressure on countries which failed or risked failing to meet the commitments they had undertaken upon accession to the Council of Europe. More generally, the Assembly took the step in 1994 of inviting all member States who had not yet done so, to sign and ratify Protocol No. 6 without delay (Resolution 1044 (1994) on the abolition of capital punishment).
6. This fundamental objective to abolish the death penalty was also affirmed by the Second Summit of Heads of State and Government of member states of the Council of Europe

(Strasbourg, October 1997). In the Summit's Final Declaration, the Heads of State and Government called for the "universal abolition of the death penalty and [insisted] on the maintenance, in the meantime, of existing moratoria on executions in Europe". For its part, the Committee of Ministers of the Council of Europe has indicated that it "shares the Parliamentary Assembly's strong convictions against recourse to the death penalty and its determination to do all in its power to ensure that capital executions cease to take place". The Committee of Ministers subsequently adopted a Declaration "For a European Death Penalty-Free Area".

7. In the meantime, significant related developments in other fora had taken place. In June 1998, the European Union adopted "Guidelines to EU Policy Toward Third Countries on the Death Penalty" which, *inter alia*, state its opposition to this penalty in all cases. Within the framework of the United Nations, a Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, was adopted in 1989. For a few years, the UN Commission on Human Rights has regularly adopted Resolutions which call for the establishment of moratoria on executions, with a view to completely abolishing the death penalty. It should also be noted that capital punishment has been excluded from the penalties that the International Criminal Court and the International Criminal Tribunals for the Former Yugoslavia and Rwanda are authorised to impose.
8. The specific issue of the abolition of the death penalty also in respect of acts committed in time of war or of imminent threat of war should be seen against the wider background of the above-mentioned developments concerning the abolition of the death penalty in general. It was raised for the first time by the Parliamentary Assembly in Recommendation 1246 (1994), in which it recommended that the Committee of Ministers draw up an additional protocol to the Convention, abolishing the death penalty both in peace - and in wartime.
9. While the Steering Committee for Human Rights (CDDH), by a large majority, was in favour of drawing up such an additional protocol, the Committee of Ministers at the time considered that the political priority was to obtain and maintain moratoria on executions, to be consolidated by complete abolition of the death penalty.
10. A significant further step was made at the European Ministerial Conference on Human Rights, held in Rome on 3-4 November 2000 on the occasion of the 50<sup>th</sup> anniversary of the Convention, which pronounced itself clearly in favour of the abolition of the death penalty in time of war. In Resolution II adopted by the Conference, the few member States that had not yet abolished the death penalty nor ratified Protocol No. 6 were urgently requested to ratify this Protocol as soon as possible and, in the meantime, respect strictly the moratoria on executions. In the same Resolution, the Conference invited the Committee of Ministers "to consider the feasibility of a new additional protocol to the Convention which would exclude the possibility of maintaining the death penalty in respect of acts committed in time of war or of imminent threat of war" (Paragraph 14 of Resolution II). The Conference also invited member States which still had the death penalty for such acts to consider its abolition (*ibidem*).
11. In the light of texts recently adopted and in the context of the Committee of Ministers' consideration of the follow-up to be given to the Rome Conference, the Government of Sweden presented a proposal for an additional protocol to the Convention at the 733<sup>rd</sup> meeting of the Ministers' Deputies (7 December 2000). The proposed protocol concerned the abolition of the death penalty in time of war as in time of peace.

12. At their 736th meeting (10-11 January 2001), the Ministers' Deputies instructed the CDDH "to study the Swedish proposal for a new protocol to the Convention [...] and submit its views on the feasibility of a new protocol on this matter".
13. The CDDH and its Committee of Experts for the Development of Human Rights (DH-DEV) elaborated the draft protocol and the explanatory report thereto in the course of 2001. The CDDH transmitted the draft protocol and explanatory report to the Committee of Ministers on 8 November 2001. The latter adopted the text of the Protocol on 21 February 2002 at the 784th meeting of the Ministers' Deputies and opened it for signature by member states of the Council of Europe, in Vilnius, on 3 May 2002.

### **Commentary on the provisions of the Protocol**

#### *Article 1 - Abolition of the death penalty*

14. This article, which must be read in conjunction with Article 2 of the Protocol, affirms the principle of the abolition of the death penalty. This entails the obligation to abolish this penalty in all circumstances, including for acts committed in time of war or of imminent threat of war. The second sentence of this article aims to underline the fact that the right guaranteed is a subjective right of the individual.

#### *Article 2 - Prohibition of derogations*

15. Article 15 of the Convention authorises the Contracting Parties, "in time of war or other public emergency threatening the life of the nation", to take measures derogating from their obligations under the Convention. This Protocol aims precisely at the abolition of the death penalty also in time of war or of imminent threat of war. In view of the very object and purpose of this Protocol, the applicability of Article 15 of the Convention has been excluded.

#### *Article 3 - Prohibition of reservations*

16. This article specifies, as an exception to Article 57 of the Convention, that states may not make a reservation in respect of the Protocol.

#### *Article 4 - Territorial application*

17. This is the territorial application clause contained in the Model Final Clauses adopted by the Committee of Ministers in February 1980. Its wording follows closely that of Article 5 of Protocol No. 6 to the Convention. This clause was included only to facilitate a rapid ratification, acceptance or approval by the States concerned. The purpose of paragraph 3 is merely to make allowance for formal withdrawal or modification in case the State Party ceases to be responsible for the international relations of a territory specified in such a declaration and not to allow in any way states to re-introduce the death penalty in such territory.

#### *Article 5 - Relationship to the Convention*

18. The purpose of this article is to clarify the relationship of this Protocol to the Convention by indicating that all the provisions of the latter shall apply in respect of Articles 1 to 4 of the Protocol. These provisions of course include the protection machinery established by the Convention. This means, *inter alia*, that a declaration made under Article 4, paragraphs 1 or 2, of the Protocol *ipso facto* entails the extension of the Court's competence to the territory concerned.

19. As an additional Protocol, it does not, as far as the Parties to the Protocol are concerned, supersede Article 2 of the Convention, since the first sentence of paragraph 1 and the whole of paragraph 2 of that article still remain valid, even for those states. It is clear that the second sentence of paragraph 1 is no longer applicable in respect of the States Parties to this Protocol. To the extent that these States Parties have also ratified Protocol No. 6 to the Convention, they will no longer be able to avail themselves of the possibility provided for in Article 2 of Protocol No. 6. In accordance with Article 32 of the Convention, any questions concerning the precise relationship between these Protocols and between this Protocol and the Convention fall within the jurisdiction of the European Court of Human Rights.

*Article 6 - Signature and ratification*

*Article 7 - Entry into force*

*Article 8 - Depositary functions*

20. The provisions of Articles 6 to 8 correspond to the wording of the Model Final Clauses adopted by the Committee of Ministers of the Council of Europe.

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The States are asked to decide:—

XI.—Whether, after consideration of the Report dated the 29th August, 2002, of the States Advisory and Finance Committee, they are of opinion:—

That Her Majesty's Government be requested to make a declaration to extend the provisions of the 13th Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms to Guernsey.



**STATES BOARD OF ADMINISTRATION  
AND STATES COMMITTEE FOR HOME AFFAIRS**

**DETENTION OF SUSPECTS WITHOUT CHARGE – PROVISION OF ANNUAL STATISTICS**

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

30th August, 2002.

Dear Sir,

**Numbers of Searches of Person by Police and Customs – Provision of Annual Statistics – Year 2001.**

**A. Introduction**

The policy letter in relation to the Detention of Suspects Without Charge appeared in Billet d'État XVI 1997 (July 1997).

In respect of providing annual statistics the States resolved:–

*'to direct the States Committee for Home Affairs and Board of Administration, to lay annually before the States, a report detailing the number of strip and intimate body searches carried out at the insistence of Police and Customs Officers, and the number of successful prosecutions flowing from such procedures, such report to include separate sections showing the statistics for each type of search.'*

**B. Provision of Police Statistics – January to December 2001**

Relevant statistics in relation to searches carried out at the insistence of Police Officers are as follows:–

Total number of strip searches	=	15
Number of successful prosecutions of cases in which strip searches were involved	=	7
Total number of intimate searches	=	0

**FURTHER INFORMATION**

- i) All persons searched had been arrested on suspicion of committing an offence.
- ii) No further concealed items were discovered during the searches.
- iii) The 7 persons subsequently prosecuted were so prosecuted for at least one offence as a result of the incident that prompted the search.
- iv) All searches were undertaken in the Custody area of the Police Station.

- v) All searches were carried out within the guidelines laid down by the Guernsey Police Standing Order 1/91 entitled 'Detention, Questioning and Treatment of Persons by the Police'.
- vi) The reasons for the searches were in relation to drug offences (searching for further concealed drugs); safety of prisoner (items for causing self-harm); officer safety (concealed items that could be used as weapons); stolen property (concealed items of stolen jewellery etc).
- vii) No complaints were received from any persons on whom searches were carried out.

### C. Provision of Customs Statistics – January to December 2001

Relevant statistics in relation to searches carried out at the insistence of Customs Officers are as follows:–

Total number of strip searches	=	58
Number of successful prosecutions of cases in which strip searches were involved	=	25 (1 pending)
Number of strip searches where drug seizure made but no prosecution	=	7
Total number of intimate searches	=	5
Number of successful prosecutions of cases in which intimate searches were involved	=	0

### FURTHER INFORMATION

- i) Of the number of strip searches carried out 29 were on persons who had been arrested on suspicion of having committed a serious Customs offence (i.e. found to be carrying drugs or suspected of having drugs concealed internally).  
  
Of these 29 arrested persons 20 were subsequently successfully prosecuted (one case remains pending).
- ii) All 29 strip searches were carried out in accordance with Staff Instructions and Codes of Practice issued relative to the Detention, Treatment and Questioning of Persons by Customs Officers.
- iii) The other 29 strip searches were carried out in approved Customs facilities on persons, not under arrest, arriving into or departing from the Island, in accordance with Section 72 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1971, as amended (Customs Law).  
  
5 successful prosecutions flowed from these 29 strip searches.
- iv) Of the 29 searches carried out on persons not under arrest no one requested referral to a superior of the officer concerned or to a Jurat.
- v) The 29 strip searches were carried out in accordance with Staff Instructions and Codes of Practice imposed under Section 72 of the Customs Law, which states that there must be reasonable grounds before the search can proceed.

vi) The reasonable grounds for the 29 strip searches were:

2 persons proved positive to drug tests (neither of which were subsequently successfully prosecuted).

7 persons met a Customs smuggling profile (of which 1 was subsequently successfully prosecuted).

20 persons had positive and evaluated intelligence held on them (of which 4 were subsequently successfully prosecuted).

vii) Female officers undertook all strip searches carried out on female persons.

Male officers undertook all strip searches carried out on male persons.

viii) Of the total of 58 persons strip searched 5 were referred to a Medical practitioner for the purpose of an intimate body search of which none were subsequently prosecuted.

ix) No complaints were received from any persons on whom strip or intimate searches were carried out.

x) In 1998 a total of 143 searches of person took place of which 57 were subsequently successfully prosecuted.

In 1999 a total of 106 searches of person took place of which 48 were subsequently successfully prosecuted.

In 2000 a total of 80 searches of person took place of which 37 were subsequently successfully prosecuted.

The attached schedule provides information on the number of strip and intimate searches carried out at the insistence of Police and Customs Officers by sex and by age group.

It is suggested that, in future years, statistics should be provided in the same form as laid out in the schedule and issued as an appendix to the Billet.

#### **D. Recommendations**

The Board and the Committee recommend the States:

- note the contents of this report
- agree that in future years statistics be provided in the form laid out in the schedule and issued as an appendix to the Billet

I should be grateful if you would lay this matter before the States with appropriate recommendations.

Yours faithfully,

R. C. BERRY,

President,

Board of Administration.

Yours faithfully,

M. W. TORODE,

President,

Committee for Home Affairs.

**CUSTOMS AND EXCISE**

**SEARCH OF PERSON STATISTICS**

**JANUARY – DECEMBER 2001**

	NUMBER STRIP SEARCHES	SUCCESSFUL PROSECUTIONS	JUV.	AGE 17-24	AGE 25-34	AGE 35-44	AGE 45 +
MALE	45	21 1 Pending	1 (1)	11 (8 + 1 Pending)	24 (9)	7 (2)	2 (1)
FEMALE	13	4	1 (1)	4 (2)	5	3 (1)	0
TOTAL	58	25 1 Pending	2 (2)	15 (10 + 1 Pending)	29 (9)	10 (3)	2 (1)

(FIGURES IN BRACKETS DENOTE NUMBER OF SUCCESSFUL PROSECUTIONS PER AGE GROUP)

	NUMBER INTIMATE SEARCHES	SUCCESSFUL PROSECUTIONS	JUV.	AGE 17-24	AGE 25-34	AGE 35-44	AGE 45 +
MALE	1	0	0	0	0	1	0
FEMALE	4	0	0	1	3	0	0
TOTAL	5	0	0	1	3	1	0

**ISLAND POLICE**

**SEARCH OF PERSON STATISTICS**

**JANUARY – DECEMBER 20001**

	NUMBER STRIP SEARCHES	SUCCESSFUL PROSECUTIONS	JUV.	AGE 17-24	AGE 25-34	AGE 35-44	AGE 45 +
MALE	13	7	0	8 (4)	4 (3)	1 (0)	0
FEMALE	2	0	0	1 (0)	1 (0)	0	0
TOTAL	15	7	0	9 (4)	5 (3)	1 (0)	0

(FIGURES IN BRACKETS DENOTE NUMBER OF SUCCESSFUL PROSECUTIONS PER AGE GROUP)

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

The States are asked to decide:—

XII.— Whether, after consideration of the Joint Report dated the 30th August, 2002, of the States Board of Administration and the States Committee for Home Affairs, they are of opinion:—

1. To note the contents of that Report.
2. That in future years statistics shall be provided in the form laid out in the schedule to that Report and issued as an appendix to the Billet.

**STATES BOARD OF ADMINISTRATION****GUERNSEY AIRPORT – INSTALLATION OF MARITIME RADAR –  
ANGLO / FRENCH SAFETY OF NAVIGATION SCHEME**

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

24th September, 2002.

Dear Sir,

**GUERNSEY AIRPORT INSTALLATION OF MARITIME RADAR – ANGLO/FRENCH  
SAFETY OF NAVIGATION SCHEME****Introduction**

The United Kingdom and French Authorities work together through a group titled “The Anglo/French Safety of Navigation Group” to improve the safety of shipping in the English Channel. Following a number of serious shipping accidents, culminating with the loss of the tanker *Erika*, the French administration, supported by the United Kingdom, introduced a mandatory ship reporting system for ships over 300 GT in the Casquets Traffic Separation Scheme (TSS). The mandatory ship reporting scheme was approved by the International Maritime Organisation (IMO) and came into force on 1 July 2001.

The French and United Kingdom Authorities have also carried out a detailed survey of shipping movements in the English Channel. Guernsey assisted in this survey by allowing the French to site a portable radar at Guernsey Airport, which was used to monitor vessel traffic movements in the radar blind area to the north west of Guernsey. The survey results have been analysed by the United Kingdom and French Authorities. The main issues were the need to modify the Channel traffic routes through the Ouessant and Casquets Traffic Separation Schemes, the In-shore Traffic Zones and improve radar coverage and surveillance of vessels in the routes.

The sea areas adjacent to the Bailiwick are particularly busy with around 300 ships a day on average transiting the area. While some of this is cross-channel passenger ships, it is estimated that the daily traffic in the Casquets lanes also includes cargoes of approximately 300,000 tonnes of oil, 20,000 tonnes of gas and 120,000 tonnes of chemical products in bulk and containers. Clearly the Islands remain vulnerable to the environmental effects of a shipping casualty in the busy waters to the north and west.

Following the Channel traffic survey, the French Authorities concluded that to improve the safety and control of vessels on the shipping routes on the south side of the English Channel they needed to install a series of radar installations along the north coast of France to monitor shipping continuously along the route. Currently there are radars established at Ouessant (Cross Corsen) and at Cap de la Hague (Cross Jobourg). There remains a lack of radar coverage between these two sites and the French wish to rectify this by establishing further radar sites at Ploumanac and on Guernsey to cover the radar gaps.

Following preliminary discussions with the Board of Administration, the French Minister for Equipment, Transport and Public Buildings applied officially in May 2001 to construct a maritime radar surveillance installation at Guernsey Airport.

#### Operational Issues

The improved radar coverage should lead to a significant increase in safety, efficiency of navigation and environmental protection on the shipping lanes between the Casquets and Ouessant Traffic Separation Schemes. Vessels, once identified in the mandatory reporting areas, will be able to be continuously tracked along the routes to ensure that they are navigating safely and that no dangerous situations are developing. Particular consideration will be given to vessels carrying hazardous cargoes and there is no doubt that the marine environment and the coastline of the Channel Islands and France will benefit significantly from the enhanced protection that will be available by reducing the risks of running aground due to navigational errors or damage sustained from collisions between ships carrying dangerous cargo.

The radar will also allow the French to ensure that no violations of safety regulations can take place without being identified, in particular unauthorised vessels using the In-shore Traffic Zone to the south of the Casquets TSS, which covers the whole of the Bailiwick. There can be no doubt that the Islands will benefit very significantly from the safety improvements that will be derived from the radar information obtained from this installation, which will not only reduce the probability of an accident at sea, but will also ensure early identification of a casualty and allow the rescue services to respond quickly and efficiently to the situation.

#### Proposed Agreement

Following detailed liaison between officers of the French administration and the Board of Administration, with advice from the Law Officers, a draft 'Heads of Agreement' has been prepared, which is enclosed as Appendix A. As there are very significant benefits for both France and Guernsey a 'Partnership-type' Agreement is proposed. The French will construct, maintain and operate the maritime radar station at their own cost. The States of Guernsey will assist by leasing to the French an area of land at Guernsey Airport for the installation of two towers, which will house a maritime radar, direction finding equipment and maritime radios. The French will maintain the installation and the data will be transmitted to Cross Jobourg and Cross Corsen to be used by French maritime controllers responsible for traffic management in the shipping lanes.

The two towers will become the property of the Board of Administration upon completion of construction and the land will continue to belong to the States but will be let to the French at a nominal rent of £1 per annum. A full and detailed lease is being drawn up by the Law Officers to cover all the necessary arrangements and safety issues. The French have proposed a 25-year lease in order to cover their very significant investment in the site and equipment, which is estimated to be in excess of £500,000.

The French have also agreed to allow data from all the equipment at the installation to be made available to the Guernsey and Alderney Authorities, which will be particularly beneficial for the Harbour Authority and Airport, and would also be available to other Committees should they require it. Responsibility for meeting the cost of the purchase and installation of equipment necessary to transfer data from the equipment to the Insular Authorities will rest with the relevant Authority.

### Technical

The two towers will be located to the south of the Airport Administration Building as shown on the attached site plan (Appendix B). The site was selected so that the height of the towers would provide the optimum performance for the French maritime radar while not interfering with the Airport's safety surface/transitional surface.

The towers, including all equipment to be located on the structures, will have a maximum height of approximately 25 metres above ground level and the equipment to be installed will have to comply with all health and safety requirements as well as those affecting the operation of the Airport.

### Consents

Details of the proposed installation of the two towers to accommodate a maritime radar, direction finding equipment and related communications equipment have been submitted to the Island Development Committee which, at its meeting held on 11th June 2002, decided to raise no objections to the proposals.

### Conclusions

The installation of a maritime surveillance radar with associated direction finding and radio equipment by the French Authorities will significantly improve the safety of shipping transiting along the shipping routes to the north and west of the Bailiwick.

The Channel Islands and the Bailiwick of Guernsey are particularly vulnerable to the impact of any shipping casualties in this area and will benefit very significantly from the enhanced protection that will result from this installation.

By assisting the French Authorities, the States of Guernsey will be demonstrating its commitment to improving safety in the adjacent sea areas to both the French and United Kingdom Authorities and the International Maritime Organisation.

The information obtained from this equipment will be available free of charge to Island Authorities which will be of considerable additional benefit.

The installation will not affect the safe and efficient operation of the Airport.

The costs of construction, maintenance and operation will be borne by the French Authorities in exchange for the lease of a site at Guernsey Airport at a nominal rent.

### Recommendations

1. The Board of Administration recommends the States to approve the construction of a maritime radar installation at the States Airport by the French Authorities as set out in this report.
2. To authorise the Board of Administration to lease to the French Authorities the area of land for a period of 25 years.

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 Board of Administration.



## APPENDIX A

### ADMINISTRATIVE ARRANGEMENT CONTAINING EXPRESSIONS OF INTENT

The President of the Board of Administration of the States of Guernsey and the Secretary of state for transport and the sea of the French Republic Government have agreed as follows:

In furtherance of the joint wish of the Parties hereto to ensure the safety of navigation, the saving of lives and to protect and safeguard our sea areas and coastline against environmental damage occasioned by Accidents and Incidents at Sea.

1. The Secretary of state for transport and the sea of the French Republic Government wishes to construct at his own cost a maritime radar station on Guernsey.
2. The States of Guernsey wish to assist the Secretary of state for transport and the sea of the French Republic Government and are willing to let an area of land at the States Airport, La Villiaze, Forest, Guernsey.
3. The maritime radar station will comprise two towers neither of which will infringe the Transitional Surface of the Airport and upon which will be installed the following equipment:

Maritime Radar Equipment

Maritime and Aeronautical Direction Finding Equipment

Maritime Radio Equipment

Microwave Communications Equipment

4. The States of Guernsey may install microwave communications equipment and other radio equipment on the towers for the use of the Airport Authority and such other equipment as may be agreed.
5. Secretary of state for transport and the sea of the French Republic Government will tender for the design and construction of the maritime radar station and will take responsibility for the Contractor who is appointed. The Secretary of state for transport and the sea of the French Republic Government will further take responsibility for the aesthetic and structural design and construction.
6. The Secretary of state for transport and the sea of the French Republic Government acknowledges that the maritime radar station must comply with the Laws and Regulations in force in the Island of Guernsey and the Secretary of state for transport and the sea of the French Republic Government will liaise with the States Board of Administration in this regard.
7. The States Board of Administration will provide all necessary assistance and cooperation to the Secretary of state for transport and the sea of the French Republic Government in the tendering process including information for inclusion in any invitation to tender.
8. Upon the finalisation of the design and full consideration of matters by the Island Development Committee, the Royal Court of Guernsey and other Regulatory Bodies the States of Guernsey will grant a Licence to construct and equip the maritime radar station.

9. The Secretary of state for transport and the sea of the French Republic Government acknowledges that in accordance with the laws of the Island of Guernsey everything except the Equipment will become the property of the States of Guernsey upon the termination of the Licence to Construct the maritime radar station.
10. Following completion of construction the States of Guernsey will let the maritime radar station to the Secretary of state for transport and the sea of the French Republic Government.

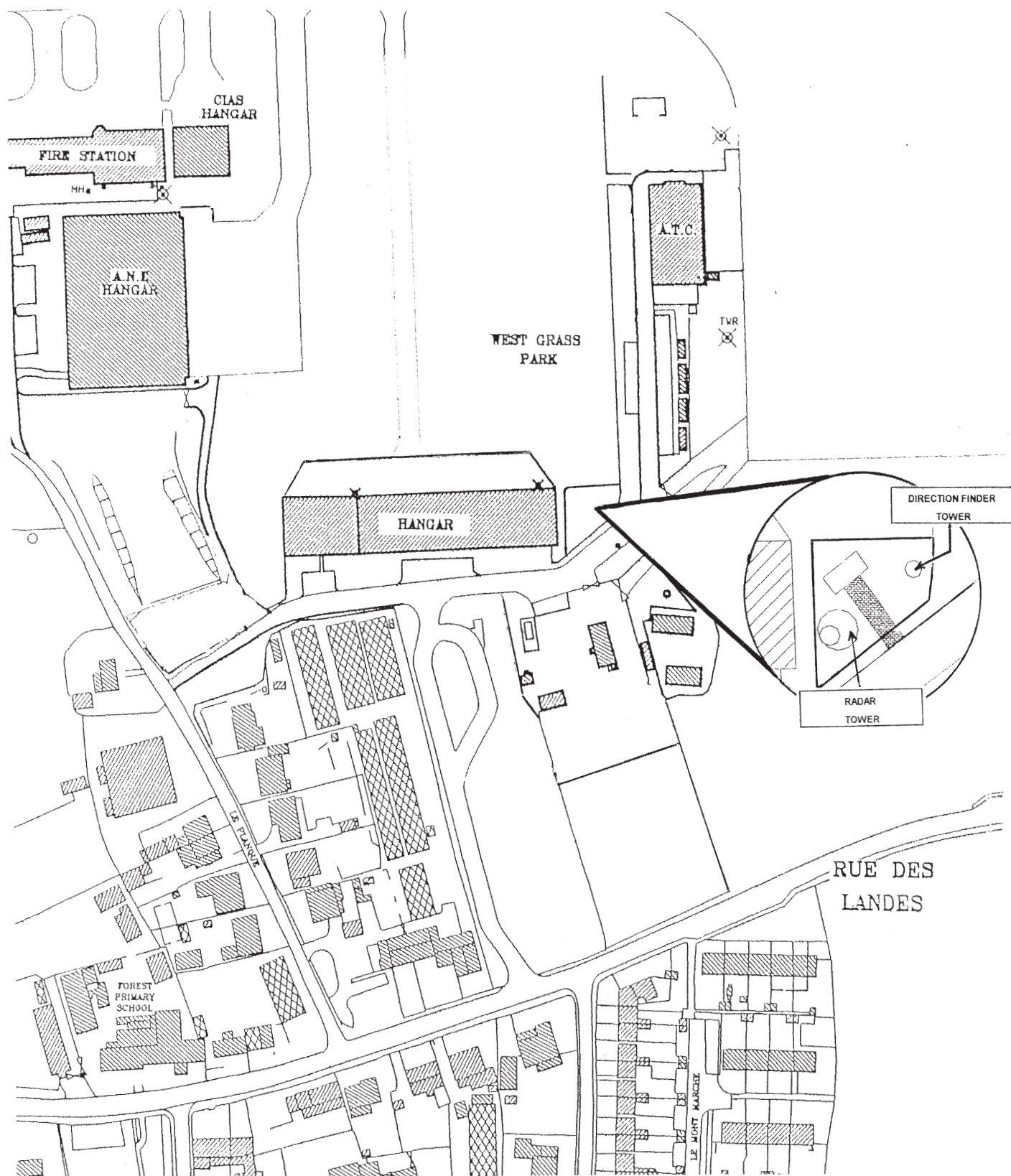
Signed at

on

In both the English and French languages, both versions being equally authentic.

Le secrétaire d'Etat des transports  
et de la mer du gouvernement  
de la République française

The President of the Board of  
Administration of the States of  
Guernsey



**STATES OF GUERNSEY BOARD OF ADMINISTRATION**

GUERNSEY AIRPORT - PROPOSED INSTALLATION OF TWO TOWERS TO ACCOMMODATE  
A FRENCH MARITIME RADAR, DIRECTION FINDER AND RELATED COMMUNICATIONS EQUIPMENT

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

The States are asked to decide:—

XIII.—Whether, after consideration of the Report dated the 24th September, 2002, of the States Board of Administration, they are of opinion:—

1. To approve the construction of a maritime radar installation at the States Airport by the French Authorities as set out in that report.
2. To authorise the Board of Administration to lease to the French Authorities the area of land for a period of 25 years.

**STATES BOARD OF ADMINISTRATION****EXTENSION AND ALTERATIONS TO THE ROYAL COURT**

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

26th September, 2002.

Dear Sir

**EXTENSION AND ALTERATIONS TO THE ROYAL COURT****1 Executive Summary****Approval and Funding**

This report seeks States approval and remaining funds (in addition to the initial £3 million already voted – see below) for the Board of Administration to proceed with HBG Design with Nicholas Hare Architects (HBG) as the preferred architect-led design team for the courts. Subject to States approval, the Board will negotiate detailed terms between this team and prospective contractors. Lovell Ozanne is the recommended reserve architect-led design team for the scheme. Approval is also sought for the Board to appoint the main contractor (on a two-stage design and build contract) in due course from among the three companies listed in this report, subject to Advisory and Finance Committee approval. A further £14,500,000 in addition to the £3 million already voted is requested to deliver the project within a strict overall cost limit of £17,500,000. The core issue is to secure vital additional court rooms, rooms for the judiciary and ancillary accommodation. The essential and urgent nature of the requirement for new courts is a common theme that runs throughout this report.

**2 Background****Key Issues**

Whilst it is not the Board's intention to revisit in this report all the issues that have been so rigorously covered already, it is important to include references where appropriate to the key issues which remain central to proposals for new courts.

**Previous Discussions and Reports**

The importance of the Royal Court complex (including the courts, Greffe and the States debating chamber) is undisputed. There have been discussions on the need to expand and alter the Royal Court building since the 1980s. Discussions culminated in the States Resolutions of February 2000 (Billet d'Etat IV of 2000) and December 2000 (Billet d'Etat XXV of 2000) – see **Appendix 1**.

The debates have been very thorough indeed and have included consideration of such matters as whether new facilities are needed and where they should be located. At their meeting on 27 December 2000 (Billet d'Etat XXV of 2000), the States approved in principle the redevelopment of the Royal Court on the old prison site, and voted initial funding of £3 million so that the project could be expedited. The Board now requires the remaining funds to take the project through to completion.

### A Context of Change

Guernsey society is, like any other, subject to continuous change. This change has impacted upon almost every aspect of Island life. In recent years it has proven necessary to provide a new prison and new Police Headquarters. Likewise, new courts are needed. Legislation continues to grow and evolve – including Human Rights legislation and regulation of the financial services sector. Legal Aid has been introduced locally and this will add pressure upon the court facilities. Higher standards have been applied and implemented in many other jurisdictions in terms of court facilities, where security and the proper protection of users (including vulnerable users) are prerequisite. All indications are that we live in an increasingly aggressive and litigious society. However, Guernsey's courts have not been and cannot be significantly improved, without expansion, to reflect and respond fully to these changes.

### Historic Flexibility of the Royal Court

The Royal Court building has proven to be remarkably flexible since its construction. It has provided for a very wide range of users including States Members, the Bailiff, Magistrates and UK Judges, Crown Law Officers, the Guernsey Bar, the Prison Service, H M Greffier, H M Sheriff, Police and Probation and associated staff. It has also provided for those who come through the courts, including plaintiffs, defendants, victims and their friends and relatives – in civil and criminal proceedings ranging from the payment of debts, through to divorce and even murder.

### 21st Century Needs

Notwithstanding the above, the Royal Court building urgently requires expansion and improvement so as to deliver a secure and modern environment that will meet the Bailiwick's needs in the 21st Century - in a cost effective and efficient manner. Victims and witnesses will then be able to be properly segregated from defendants. Child witnesses will be able to give evidence from a specially designed facility. Judges, Jurats and Magistrates will be separated (by dedicated circulation routes) from those they have sentenced. Disabled access will be provided to all floors. New court rooms will allow for sometimes lengthy proceedings to take place in a modern, light and airy environment bearing in mind the very oppressive circumstances that can surround a trial. Importantly, security provision will be in place not only for the courts but also for States Members.

### Urgent and Fundamental Requirements

The States have recognised that current deficiencies are completely unacceptable. The situation was urgent at the time of the last debate and is worsening. There has been an increase in court business since 2000 and numerous security 'incidents' have occurred pointing to a downturn in behaviour as found elsewhere. The States have agreed that certain fundamentals are required – more accommodation, proper security and segregation, with modern facilities and to modern standards, on the site of the old prison.

### Core Proposals

The Board's core proposals for new courts and ancillary facilities involve land in States ownership providing the required island site; no land purchase is needed. The potential for a separate office development to the west of the new courts complex does not form part of these proposals and is currently being investigated. This may be the subject of a future, separate report. If not required at the outset by the States, then the Board may recommend that the site be developed and leased to the private sector. Initial assessments indicate that this could generate at least a £2 million lump sum for a medium term lease, depending upon the approach adopted, providing the States with flexibility as to its options for use thereafter.

### Machinery of Government

The Board is mindful of the States Resolutions arising from the Joint Committee policy letter on the Machinery of Government (Billet d'Etat VII of 2002). It is noted that the Advisory and Finance Committee has been directed to report to the States and submit appropriate proposals regarding the design and equipping of a States Chamber and supporting facilities (unless Resolution 2A(b) applies). It is also noted that the States Procedures and Constitution Committee has been directed to report to the States and submit proposals (unless Resolution 2A(b) applies) regarding voting in the States of Deliberation, to include provision for simultaneous electronic voting. The Board is aware that work will be ongoing in respect of the detailed outworking of the recent States decisions. The key point here is to note that the court extension will be as flexible as possible to allow for future changes.

## **3 Security**

Court security is not just a matter of preventing the escape of prisoners. It is also essential for the protection of all those within the precincts of the courts including the general public, juveniles and children, witnesses, defendants, court administrative and legal staff, Judges, Jurats, magistrates, contractors, the media, States Members and official visitors. Concern has been expressed by the Director of Public Prosecutions and Crown Prosecution staff about the lack of court security elsewhere which is believed to have contributed to open attempts by defendants' supporters to intimidate others in proceedings. Security is, of course, also a very real issue with regard to the States of Deliberation.

### Widespread Concerns

Letters from various court users are appended to this report - see **Appendix 2**. These emphasise, inter alia, the consensus that security issues in respect of the Royal Court must be fully and properly addressed. There are increasing concerns regarding the growth of serious crime in Guernsey and the criminals associated with it (particularly in the realm of drug trafficking), where large sums of money and other resources are available to breach security. There are also real concerns in respect of potentially violent individuals as observers in the public gallery. Clearly, there is a need for appropriate security for the courts and the States debating chamber in the 21st Century. Not only are court users, the Guernsey Police and Prison Service concerned, but questions have been asked by States members in the States of Deliberation about security in the building. Indeed, a recent independent report was commissioned by the Advisory and Finance Committee in response to ongoing security concerns. This report was produced by an expert on court security who works within the Lord Chancellor's Department. Interim measures have been adopted following the report's recommendations. Further interim security modifications may need



to be provided within the limitations of the existing facilities. Current security issues include the need for interim arrangements for prisoner transfer, i.e. while the new extension is being constructed.

Minimum security standards relating to circulation, chambers layout, panic alarms, escape routes etc. incorporated in the Courts Design Guide have recently been revisited and fully reaffirmed by the Lord Chancellor's Office. Moreover, there exists a clear agenda elsewhere for improved protection and facilities for witnesses, and more secure docks are already being installed in many court rooms.

#### Vulnerable Users

It is the case that there are many vulnerable users of the courts, including (but not only) children. The new court extension will be designed to accommodate high security features whenever necessary – including the installation of systems and the adoption of other security measures according to need. There will be a facility to give evidence by video link and to separate children and defendants in juvenile cases.

#### **4 Increase in Court Business**

The business of the Royal Court continues to grow. The number of cases before the Court in both civil and criminal matters has increased. As well as the Bailiff and Deputy Bailiff there are two locally based Lieutenant-Bailiffs who each sit for several months a year and a number of non-resident Lieutenant- Bailiffs are called in on an ad-hoc basis for special cases. In addition, access to the courts has been facilitated by the introduction of legal aid. Moreover, the Board understands that the future expansion of the permanent judiciary is most likely to be required.

#### **5 Law Officers' Requirements**

The Law Officers' current accommodation is already under considerable pressure. The dedicated library room is about to be lost given increasing pressure for more staff accommodation. More Law Officers are likely to be required. The Law Officers need the area currently occupied by the Greffe as a matter of urgency otherwise temporary accommodation may be needed although this would not be satisfactory. If temporary accommodation is used, all the Law Officers and their staff must subsequently be re-housed together when new or additional accommodation is developed.

#### **6 Report on Progress**

##### Progress Since December 2000

Significant progress has been achieved on the project since December 2000. Professionals have been appointed; surveys, archaeology and recording work have been carried out; consultations with all users have been undertaken; a Project Execution Plan has been prepared together with a programme and cost plan; a procurement strategy has been developed; a demolition tender for the old prison site has been approved; and Heritage Committee consent to demolish listed buildings on the old prison site has been given – subject to several conditions that have been met and agreed by the Heritage Committee.

The recording process has been carried out in accordance with the Heritage Committee's requirements. The Committee has confirmed that this has been carried out in an exemplary manner. Earlier this year the Committee confirmed that with the recording and archaeological



works satisfactorily completed it can authorise the demolition of the old prison buildings and walls to allow, inter alia, the construction of the new road to proceed.

Alongside the above progress, the existing Royal Court building continues to be maintained and a phased maintenance strategy for the future has been developed. Temporary security alterations have been carried out. Discussions with the Advisory and Finance Committee on a future ICT and communications strategy are underway. A Conservation Plan for the existing building has been prepared.

In parallel with the provision of £3 million to expedite the commencement of the project, the States also directed the preparation of legislation to provide for the permanent closure of Rue Marguerite (Billet d'Etat XXV of 2000). This legislation is now in place, and the road closure will come into force when the re-routed road has been constructed so as to provide a secure island-site for the expanded courts.

## **7 Reason for Return to the States at this Point – Prior to Implementation**

Given progress to date, there is now sufficient information to allow the States to consider for approval the next (implementation) stage of the project. A return to the States at this point with the preferred architect-led design team, namely HBG (with Lovell Ozanne as the reserve team), prior to the receipt of construction tenders, provides transparency whereby the States can:

- approve the whole procurement process
- be advised as to cost and price certainty
- reduce risk.

Moreover, contractors can bid on the basis of project certainty.

## **8 Architect-led Design Team – Selection Process**

Procurement activities have advanced to a stage where the budget has been defined and, following a rigorous pre-qualification and tendering process, HBG has been identified as the preferred architect-led multi-disciplinary design team. This team includes all architectural design disciplines, civil/structural engineering and environmental/building services engineering, as does the reserve team led by Lovell Ozanne. A reserve team is recommended in case, inter alia, negotiations with HBG break down.

### **Design Team Competition (all 5 submissions will be displayed in the foyer to the Greffe)**

As part of the competitive tendering process (which includes a design team fee tender for future acceptance by the design and build contractor to be appointed), the 5 short-listed design teams have submitted concept drawings for evaluation by the Board's selection panel – made up of 5 professional and 2 lay judges. These drawings depict the teams' vision of the new extension's elevations and their proposed internal space planning arrangements. The 5 competing teams have presented their designs to the selection panel and observers from the Board of Administration, Heritage Committee, Island Development Committee and Advisory and Finance Committee.

### **Selection Panel Views**

At the time of writing, the Board has been advised that a majority of the panel (five members of seven) recommend HBG as the preferred design team. Two members have requested further consultations. The majority recommendation is that HBG with Nicholas Hare Associates be identified as the preferred design team and that negotiations with this company should be taken

forward. This is on the basis that the HBG proposal overall represents best value for money and presents the lowest risk of exceeding the project budget. The design proposal offers a framework for meeting the functional requirements of the brief.

#### The Board's Decision

**Having noted the majority views of the selection panel, the Board recommends the States to approve HBG as the preferred team. The Board also recommends the States to agree that Lovell Ozanne should be the reserve team. The Board appreciated the relative advantages offered by both companies that have offered competition submissions that can, in the Board's view, satisfactorily meet the Island's needs for this scheme within the overall cost identified. On balance, however, it decided that HBG should be recommended as the first choice.**

The Board was impressed by HBG's experience of court schemes. The Company has proven ability to deliver courts that function as required. It felt that its treatment of the roofscape at concept stage would be unacceptable. However, it was assured by the Company that this can be developed so as to meet local concerns and aspirations. Similarly, the Company has offered assurances that it will be willing to enter a full dialogue regarding external materials to the elevations that are sensitive to the context of St Peter Port. HBG has also said it would be willing to develop a design that incorporates the façade to the 1811 building (old prison site) in the new building.

Lovell Ozanne kept closely to the brief. The Board considered that the Company had submitted a concept design that was closer to local expectations for a building in the heart of St Peter Port than some of the other submissions. It was noted that the internal courts and circulation arrangements for the new courts would need to be developed significantly. The Board would require Lovell Ozanne to appoint a court specialist of its own to influence the design (at the time of writing, Lovell Ozanne has confirmed that such a specialist has been retained). The Company agreed that the roofscape could be amended to offer a more traditional appearance, and that the proposed entrance to the new court extension could be more imposing. It was not opposed to lowering the height of the eastern entrance to reduce levels. The existing entrance to the old prison could be incorporated in the new extension.

The Board noted that the McCormac Jamieson Prichard (MJP) submission could be as much as £4,500,000 over the agreed budget (£22 million as opposed to £17.5 million). It also noted that the submission varied extensively compared with the brief. The Board considered that it did not meet the basic criteria, leading to an insufficient increase in floor area and inadequate court and other facilities. The Board considered that the elevations were unacceptable, especially regarding those overlooking St Paul's Gardens. The MJP scheme requires the demolition of St James Chambers, which building has recently been refurbished. The Board was of a view that the scheme would not meet with public approval and acceptance.

Amongst other considerations, the Board considered that the HOK scheme was more in keeping with developments along Le Truchot, and not what would be needed at the scheme's location in this historic quarter of Town. It also did not support the proposed retention of the old prison walls along St James Street.

Regarding Gensler's submission, the Board considered, inter alia, that while such a design approach would be acceptable in UK cities, it would not be acceptable in St Peter Port. The States had previously been given an assurance that the new court building would offer a traditional appearance, sensitive to the existing streetscape.

In addition to the Board's recommendation regarding HBG and Lovell Ozanne, the States should note that three contractors have also pre-qualified. Subject to States approval of the project they will be invited to tender on a two-stage basis culminating in a tender sum for the full construction cost, within the cost limit of £17.5 million overall. With the exception of preliminary works that have already received States approval (in December 2000), construction of the main works will not start until the construction tender sum and programme have been approved by the Advisory and Finance Committee.

At this stage, therefore, the Board is seeking approval to:

1. Proceed with HBG as the preferred architect-led design team (Lovell Ozanne as the reserve) and to negotiate terms between the architect and prospective contractors based on the design fee tender already in the Board's possession. This process will be carried out in close liaison with the Board as Client and its advisory team. In the event that terms cannot be agreed between HBG and the contractor, Lovell Ozanne will be chosen as the reserve team to negotiate terms with the contractor in liaison with the Board. Both companies have agreed to negotiate their fees.
2. Issue tender documentation for a two-stage design and build contract to the following three contractors that have already pre-qualified:
  - R G Falla Ltd
  - John Mowlem (Guernsey) Ltd
  - Alfred McAlpine Special Projects

## **9 A Context of Capital Priorities**

The Board appreciates the need for the Island's programme of public capital expenditure to be prioritised. Within this context, it has already been directed by the States to proceed with the urgent expansion of the courts. The Board understands from this that the States recognises provision for the administration of justice as being essential to a modern democracy that is part of the wider, indeed international, community.

The implications of a serious breach in security, or indeed insufficient accommodation in terms of size or standards, include risks to persons and the judicial process itself. A long court case would test very severely the ability of the existing facilities to cope.

The courts are an integral part of the fabric of any community. They are not concerned exclusively with crime or multi-million pound civil actions. They are also there to ensure that the rights of children and spouses are properly dealt with, that a local tradesman can secure speedily a judgement against a debtor, to give the community confidence that justice is dispensed fairly without fear of intimidation and so on.

Judges, whether from within or outside the Island, are entitled to expect to preside in reasonably equipped courtrooms and to be able to retire and discuss their conclusions and prepare judgements in satisfactory and secure accommodation. To require them to deliver justice in inadequate accommodation and in buildings which cannot provide adequate levels of security is not acceptable.

## **10 The Next Stage**

The Board is proceeding with the demolition of the old prison buildings and walls soon so as to expedite enabling works, particularly those related to road realignment. The architect-led design team must be procured and a contractor must be appointed. Works on the new extension must run in parallel with alterations and ongoing maintenance to the existing Royal Court building.

## 11 Proposed New Build Court Extension

In order to enable the Royal Court to meet the demands of modern court business it is essential to provide additional accommodation that, with the existing building, forms a coherent court complex. The extended court complex will provide four courtrooms:

Royal Court	For the States of Deliberation and small civil court business
New Criminal Courtroom	This will be able to deal with all criminal proceedings in the Royal Court, and civil work at other times
New Magistrates Courtroom	This will be able to hold both 'formal' and 'informal' hearings. Cases involving young persons will continue to be listed at separate times to avoid the need for separate specialist youth accommodation
La Cour Ordinaire	The main civil court room

There will be supporting accommodation for all key users as follows.

Judiciary	The needs of the judiciary will be met by providing retiring rooms adjacent to each courtroom plus further accommodation for Lieutenant Bailiffs and visiting judges including the Court of Appeal. Accommodation for administrative support is also included.
Defendants	A new secure custody suite will provide safe, secure accommodation.
Public	Waiting and consultation spaces that the existing building lacks will be provided for the whole court complex.
Staff	Greffe, Sheriff and Law Officers will be accommodated within the court complex, segregated from public areas but with appropriate public counters and reception.
Victim Support	A modest but essential provision for particularly vulnerable users.
Police, Probation and Customs	A court base for these key departments
Witnesses	Provision for child witnesses and separate suites for prosecution and defence witnesses

The building specification will meet normal court standards and allow for a general life of 60 years. The scheme is subject to life cycle costings which will be benchmarked against other comparable projects. Other aspects of current best practice will be embodied in the project. Flexibility in use is a key design requirement. Disabled access will encompass not only current building best practice, but will seek to implement the principles of the Disability Discrimination Act. Health and Safety will follow local legislation and best practice wherever possible in terms of design, construction and building management.

The existing Royal Court building will be an integral part of the extended court complex. Spaces will be used to support the Royal Court room both for States and civil court functions. There will be an opportunity to reinstate some of the original rooms that have been modified in recent times. For example, the 'Police Courtroom' which has been sub-divided could be refurbished to form a committee/informal courtroom.

## **12 Alterations to Existing Royal Court / St James Chambers**

The overall court complex is discussed above. In addition, there are important aspects concerning the existing Royal Court, the States of Deliberation and St James Chambers that warrant further explanation.

The provision of accommodation for States Members aims to give Members space within the building outside the public domain where States business may be carried out. Members will have a base and the potential to use rooms such as the original Police court that can be made available as a meeting/committee room.

The Royal Court room will be relieved of the need to cope with secure criminal court hearings and can be altered to suit the needs of the States and civil court proceedings. This is in keeping with historic precedent where the Royal Court room has already undergone a number of earlier alterations. However, the scope of this project does not include major changes.

St James Chambers will continue to provide office accommodation for the Law Officers. Improved security can be provided, and good access from the new court complex (particularly for disabled users) can be incorporated.

## **13 Refurbishment / Maintenance Works to the Existing Building**

Essential works remain ongoing, as delays cannot be allowed to compromise security or accelerate deterioration etc. In parallel with the extension of the Royal Court, a phased strategy for the ongoing refurbishment / maintenance of the existing facilities is being developed. This strategy will be refined in consultation with users, as well as with the Advisory and Finance Committee and the Heritage Committee. A Conservation Statement in respect of the Royal Court has been prepared. Future refurbishment works and maintenance will need to take account of the historic nature of the existing building and will require appropriately sensitive treatment. They will be influenced by any future decisions regarding the design of the States Chamber and simultaneous electronic voting.

Key aspects of the refurbishment/maintenance strategy include:

- a) An integrated and co-ordinated approach between the phased maintenance works and the initial alteration works under this capital scheme.
- b) Minimised disruption to Court users through effective and practical programming.
- c) Achieving best value for money.
- d) Taking into account conservation and heritage issues.
- e) Integration of ICT and other systems with the new Court extension.

Funding for initial alteration works in the existing Royal Court will be included in the capital costs for the new extension.

## 14 Cost

### Cost Limit

**A strict overall cost limit for the scheme has been set at £17,500,000. This figure includes the £3,000,000 voted by the States in December 2000 (Billet d'Etat XXV of 2000).**

This firm cost limit is based on the feasibility design produced by the Board's Technical Advisor, Online Architects, and has been prepared by benchmarking the project against similar Court Service schemes in the UK together with allowances for location, risk, professional fees, surveys and inflation through to completion in 2005.

Analysis of the competition submissions has indicated that the HBG scheme and Lovell

Ozanne scheme can be delivered within this strict cost limit.

### Cost Breakdown and Cost Certainty

The cost limit of £17,500,000 is broken down as follows:

New Build extension to the Royal Court (including realignment of New Street and underground car park)	<b>£6,950,000</b>
Minor alteration works to existing Royal Court	<b>£390,000</b>
Average Risk Allowance	1,060,000
Location factor (47%) – the average increase in location factor compared to UK, as published quarterly by RICS	£3,950,000
Inflation allowance – interpolated from forecast figures published by RICS for construction tender price increases	£1,850,000
Professional fees and surveys etc	£3,300,000
<b>Total</b>	<b>£17,500,000</b>

The procurement process demands, and will facilitate, effective project team working in a partnering approach to develop the design and resulting construction cost within the overall cost limit of £17,500,000.

**The design and build construction contract will be let as a Lump Sum contract to the contractor only if the resulting price is within the cost limit.**

Tendering design teams and contractors were asked for their professional views on the process being adopted and have welcomed the partnering approach to achieve the aims of the project.

The cost is based on commencement of the main contract in January 2004 and project completion at the end of 2005. Construction inflation is forecast to greatly exceed the Retail Price Index, so a project of this scale is very sensitive to inflationary pressures. **In broad terms a delay in the scheme of one year is likely to result in an increase of approximately £850,000.**

### Value for Money

The procurement process allows all elements (including all sub-contract packages) to be separately tendered on price and quality. In conjunction with this, the process makes the whole professional team (designers, advisors and contractor) responsible for effective risk management, team working, best practice and design quality. This process will be carried out under the umbrella of the cost limit.

### Lifecycle Costs

In parallel with the capital cost, detailed lifecycle costs have been prepared as a benchmark to allow design decisions to be made throughout the process on a whole lifecycle cost basis.

### Location Allowance

In the preparation of a location allowance, note has been taken of average location indices published by the RICS together with the recent Board of Industry report entitled

“Constructing The Future.” A significant positive aspect of the Two Stage Design & Construct approach being adopted is that early contractor involvement should allow the whole project team to minimise location cost implications (it is hoped that the 47% shown above can be reduced). The process will incorporate formal value engineering workshops together with ongoing design development to enable full consideration by the whole team of issues such as alternative construction methods, pre-fabrication, alternative materials, innovative approaches etc.

## **15 Design / Quality Issues**

In response to the Board’s instructions, the advisory team has taken careful steps to ensure that design quality is a key issue. A CABE (Commission for Architecture and the Built Environment) enabler has joined the team to reinforce this aspect of the project. Design quality has been integral to the design team selection and procurement process. The following factors are amongst those that have been addressed.

- Security
- Cost in use
- Value for money
- Flexibility and adaptability
- Relationship of the building to its historic context
- Appropriateness of architectural expression
- Clarity of design and functional arrangements
- Structure and servicing
- Sustainability

The design team ideas competition has been subject to detailed scrutiny by the technical and cost advisors. **By the time this report is debated by the States, the various competition drawings will have been displayed and presentations to the public and States members will have taken place.**

## **16 Design Team / Contractor – Design and Build Contract**

The Board recommends HBG as the preferred design team in advance of and separately from the contractor. Both parties (design team and contractor) will form a single design & build contractor. Such an arrangement relies on a sustainable marriage between both parties. The project will then be procured under a two-stage design & build contract.



The selection of HBG as the preferred design team with the reserve team of Lovell Ozanne, plus a short-list of three contractors has followed a rigorous process involving the following stages:

1. Advertising in the Guernsey and UK professional press
2. Receipt and evaluation of initial expressions of interest
3. Selection of a long list of applicants
4. Receipt, evaluation of more detailed responses and interviews of long listed applicants
5. Selection of a short list of applicants for tendering purposes

The selection panels including observers have comprised selected States Members, Board Members, officer representatives of the Advisory and Finance, Island Development and Heritage Committees and the Board's Advisory team [project sponsor, project manager, technical advisor, cost advisor and CABA (Commission for Architecture & the Built Environment) enabler.

Throughout the selection process emphasis has been placed on identifying organisations prepared to work in a collaborative manner using 'partnering' principles and a 'best practice' approach.

### **17 Relationship of Designer / Contractor with States Advisory Team**

The design & build procurement approach offers the opportunity to unite designers and constructors at an early stage and engineer quality design solutions that provide best value in terms of capital and life cycle cost, functionality, aesthetics and 'buildability'. The Board's Advisory team will be active participants in all stages of the value engineering process.

A key aspect of design & build contracts is that the contractor takes responsibility (and therefore holds the risk) for co-ordinating both the design and construction processes. The Board's Advisory team will instigate risk management procedures and report regularly to the Project Board.

### **18 Programme / Time Issues**

The project manager has prepared the master programme to align with the States meeting on 30th October. Activities have been planned beyond this date on the understanding that the project receives States approval.

Key project milestones are as follows:

Recommendation of preferred design team	-	September 2002
**Start of phased demolition works to old prison (6 weeks)	-	October 2002
<b>Appointment of design &amp; build contractor</b>	-	<b>January 2003</b>
<b>Appointment of design team (as part of contractor team)</b>	-	<b>January 2003</b>
Completion of Outline Sketch Design	-	April 2003
Completion of Final Sketch Design	-	July 2003
Start of main contract works	-	January 2004
Completion of new court extension	-	October 2005
Completion of works to existing Royal Court	-	December 2005
Project completion	-	December 2005

\*\* Subject to Heritage Committee approval

### **19 Heritage Issues**

In view of the need to demolish the old prison buildings and walls so as to facilitate the provision of an extension to the Royal Court, the States resolutions of December 2000 (Billet d'Etat XXV of 2000) included those relating to demolition and recording (Resolutions 2, 3, 4, 6 & 7). The Board was pleased to receive the assistance of the Heritage Committee leading to the appointment of the



Museum of London Archaeology Service (MOLAS) to undertake a thorough recording of the old prison site. The exercise has also involved the expert involvement of English Heritage. At the time of writing, an interim report has been issued by MOLAS. The Heritage Committee agrees that it very fully records the standing buildings on the site and considers that the report has been carried out in an exemplary manner. The report, which is a thorough record of the site and will be a valuable future reference, can be finalised by the inclusion of any findings arising from the demolition phase watching brief.

Provision can be made as appropriate for the re-use of elements from the existing prison site during the forthcoming design stage. Items that have no particular historic or architectural value but which have material value can be stored as a resource for future use if appropriate.

At the time of writing, full consent for the demolition of the old prison site to proceed is still awaited from the Heritage Committee.

## **20 Planning Issues**

At the meeting held in December 2000 (Billet d'Etat XXV of 2000), the States resolved "*5. To direct the Island Development Committee to take note of the above (over-riding public policy considerations requiring the redevelopment of the old prison site) when considering under the relevant laws any request from the States Board of Administration for that Committee's comments concerning proposed redevelopment of the old prison site as contemplated in Option 1.*". The Board has been pleased to invite the Committee's representatives to take part as observers in respect of the recent selection process for an architect-led design team. Concept drawings from prospective design teams have been made available to the Committee. The Committee has also assisted in the preparation of a design brief which was issued to prospective design teams. Cooperation of this nature is essential and will continue to benefit an important scheme of this nature.

## **21 Conclusion**

Those individuals who work in the courts or who have cause to use the courts deserve safe and secure accommodation. This is more than a matter of convenience or preference when there may be a mix of persons within the complex at any one time, including defendants in serious criminal cases, vulnerable parties and the general public. Then there is the substantial increase in demand upon the courts and its officers, and the attendant increase in staff, that has led to the present accommodation being stretched to capacity in terms of space available. The Board is able now to build upon recent States decisions and to deliver new facilities that will serve the Bailiwick and its people for many years to come.

## **22 Recommendations**

After consideration of this report the States are recommended:

- 1 To agree to the extension of the courts as set out in this report at a total cost not exceeding £17,500,000, including £3,000,000 voted in December 2000 (Billet d'Etat XXV, 2000);
- 2 To direct the Board of Administration to proceed with HBG with Nicholas Hare Architects as the preferred architect-led design team and to negotiate terms between HBG (or Lovell Ozanne as the reserve team as outlined in section 8 of this report) and prospective contractors, subject to the approval of the Advisory and Finance Committee;

- 3 To direct the Board to issue tender documentation for a two-stage design and build contract to R G Falla Ltd, John Mowlem (Guernsey) Ltd, and Alfred McAlpine Special Projects within the maximum figure as outlined in this report;
- 4 To instruct the Board to appoint a main contractor for this project from one of the three Companies named in Recommendation 2 above, under a two-stage design and build contract incorporating the design team, subject to the approval of the Advisory and Finance Committee;
- 5 To direct the Board to appoint other professionals, to procure works, investigations and surveys, and to accept tenders and enter into any necessary contracts as may be necessary to execute this project, subject to the approval of the Advisory and Finance Committee where appropriate;
- 6 To vote the Board of Administration a credit of £14,500,000 to cover the cost of the above, which sum is to be charged to that Board's capital allocation;
- 7 To authorise the Advisory and Finance Committee to transfer the sum of £14,500,000 from the Capital Reserve to the capital allocation of the Board of Administration.

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

Yours faithfully,

R. C. BERRY,

President,

States Board of Administration.

**APPENDIX 1**

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 23RD DAY OF FEBRUARY 2000

(Meeting adjourned from 10th February 2000)

The States resolved as follows concerning Billet d'Etat No IV dated 21st January 2000

**STATES BOARD OF ADMINISTRATION****EXTENSION AND REFURBISHMENT OF THE COURTS**

After consideration of the Report dated the 10th January, 2000 of the States Board of Administration:—

1. To approve in principle the use of the old prison site for the redevelopment of the Royal Court, subject to the Board of Administration resuming discussion on proposals for the development with the States Heritage Committee, the Island Development Committee and the States Traffic Committee in order to resolve those matters within their respective mandates before any other action is taken, and subject in particular to:
  - the Board of Administration undertaking such designs, investigations and surveys as are essential to those Committees in respect of the redevelopment of the Royal Court, employing such consultants as may be necessary to achieve this;
  - the Heritage Committee considering any application to demolish any registered building or structure;
  - The Board of Administration, in co-operation with the Island Development Committee, investigating the implications of using adjacent privately owned land and also, within the site, the possible use of part of the land for private purposes;
2. To direct the States Board of Administration, in the event that the matters referred to in Resolution 1 are not resolved between the States Committees therein mentioned within six months, to refer the whole issue back to the States as soon as possible after the expiration of that period.
3. TO NEGATIVE THE PROPOSITION to direct the Island Development Committee to instigate a planning inquiry, as if pursuant to section 9 of the Island Development (Guernsey) Law, 1966 before any proposed development is brought back to the States for approval.

D R DOREY  
HER MAJESTY'S DEPUTY GREFFIER

**APPENDIX 1****THE STATES OF THE ISLAND OF GUERNSEY**

ON THE 27TH DAY OF DECEMBER 2000

The States resolved as follows concerning Billet d'État No. XXV dated 24th November, 2000 (Meeting adjourned from 14th December, 2000)

**STATES BOARD OF ADMINISTRATION****EXTENSION AND REFURBISHMENT OF THE COURTS**

VI. After consideration of the Report dated the 8th November, 2000, of the States Board of Administration:

1. To approve in principle the planned redevelopment of the Royal Court on the old prison site on the basis of Option 1 as set out in that Report.
2. That the over-riding public policy considerations dictate that the public interest is best served by the redevelopment of the old prison site, as described under Option 1, notwithstanding that it will entail the demolition of all buildings and walls on the site which have been registered in the Register of Ancient Monuments and Protected Buildings.
3. To direct the States Board of Administration to arrange, in consultation with the States Heritage Committee, for the recording of the old prison site, as detailed in that Board's report dated the 10th January, 2000, and contained in Billet d'État No. IV of 2000.
4. To direct the States Heritage Committee to note the States view that it is an overriding public policy consideration that all the old prison buildings and walls be demolished, when considering under the relevant laws any application from the States Board of Administration for their demolition.
5. To direct the Island Development Committee to take note of the above when considering under the relevant laws any request from the States Board of Administration for that Committee's comments concerning proposed redevelopment of the old prison site as contemplated in Option 1.
6. To approve the States Board of Administration's proposals to undertake enabling works as detailed in section 12 of that Report, including surveys and the appointment of consultants at a total estimated cost not exceeding £3,000,000.
7. To authorise the States Board of Administration to seek tenders and award, subject to the approval of the States Advisory and Finance Committee, contracts for the proposed demolition and engineering works as detailed in section 12 of that Report and from within the sum of £3,000,000 mentioned above.
8. To authorise the States Board of Administration to commission a project design team through the appointment of consultants, including a Project Manager, within the sum detailed above, subject to the approval of the States Advisory and Finance Committee, which team is to prepare detailed proposals, including tender documentation for the extension and refurbishment of the courts.
9. To vote the States Board of Administration's Capital Allocation a credit of £3,000,000 to cover the costs of the above works, which sum is to be charged to the Capital Reserve.
10. To direct the preparation of such legislation as may be necessary for the permanent closure of Rue Marguerite as detailed in Option 1, such closure to come into force when the re-routed road has been constructed.

D. R. DOREY  
HER MAJESTY'S DEPUTY GREFFIER.

18 September 2002

## APPENDIX 2

Deputy R Berry  
President  
Board of Administration  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey

Dear Deputy Berry,

### **Re: Extension and Refurbishment of the Royal Court**

Thank you for the opportunity to comment on the requirements in the new Court building, particularly in relation to the needs of children and their families involved in Court proceedings.

The Children Board is involved with children and families in both civil, criminal and private law matters, which involve both the Juvenile Court, Magistrate's Court and Royal Court. In some proceedings, officers of the Children Board provide a Guardian ad Litem service and a Court Welfare Service to the Courts, as well as providing Court Reports in criminal matters, and being parties in proceedings involving children and their families.

- There is a requirement for a separate Court for children and family matters, that provides a less formal and adversarial setting for family hearings. Human Rights Jurisprudence, and the UN Convention on the Rights of the Child state clearly that children have a right to be involved in administrative and legal matters relating to them. This means having a forum that facilitates this for the child and his/her family.
- Concern has been expressed for some time that the process of giving evidence in some sensitive matters is so gruelling for children, that offences against them are not being pursued. It is now accepted procedure in England and Wales for children in certain cases to give their evidence by means of a video and live-link so as to avoid them having to face an alleged abuser in the Court. This procedure is being extended to some vulnerable adults. Similar arrangements should be made in Guernsey.
- In certain cases, it is important that the child and other witnesses are able to enter the Court and wait in an area that is separate from others involved in the case. There is therefore, a need for a separate entrance so that children do not risk meeting an alleged abuser on the way into Court and a separate waiting room for children that is suitably equipped.
- Many families involved in all types of cases have to bring their children to Court with them, so waiting areas need to be family and child friendly. This is particularly important as family members can be quite anxious whilst waiting to go into Court, and the children need to have suitable play areas.
- There is a need for rooms/areas where parties to Court proceedings can consult privately with Advocates and/or other professionals and/or family members and friends. Many cases are settled out of court on the day of the hearing and it is important that everyone involved has an appropriate space in which to discuss and consider options and offers made.
- An issue raised by professional staff appearing as expert witnesses is the need for a separate waiting area so that they don't have to wait with other witnesses who may be hostile to them.
- Families need to be able to obtain reasonably priced refreshments and snacks within the Court building in a café setting. This is partly because hearing, and perhaps more particularly waiting, times can be very lengthy. As important, is the facility for a distressed, anxious or angry party to have refreshment, as an aid to composing themselves. Vending machines in a busy thoroughfare are not adequate, particularly as parents may have no option but to have young children with them.

- Many families attending Court are unfamiliar with the layout of the building. A Reception area with notice boards is needed, with staff who are able to show families to the appropriate Court or waiting area.
- As the implications of Human Rights legislation from judgements in England and Europe are being built into local procedures and practice, there is already a need for more Court time for children and family matters. Legislative changes that are likely to be introduced into local legislation following a review of the childcare laws, may mean more matters having to be decided by the Courts. The need for Court time, and therefore Court facilities, is therefore likely to increase over the next few years. The new Court development should therefore have the capacity to expand in order to meet this increasing need.

#### CONSULTATION WITH THE NSPCC

The NSPCC in Guernsey provides a witness support service to children who are giving evidence in criminal cases, particularly those of a sensitive nature such as allegations of abuse. The views of the NSPCC, obtained from their experience in these cases, are included below. Many of the comments are similar to those expressed by the staff of Children Board with experience in this area of the work.

- If legislation allows, it would be highly desirable for children and young people to give evidence by way of a live link which is a closed circuit television link. This allows the witness to be absent from the place where the proceedings are being held, but at the same time to see and hear, and be seen and heard by the Bailiff, Magistrate, Jurats and Advocates representing each party.
- It would be helpful to consider the extra needs of some children and young people who may have learning or physical disabilities and who may require wide access because of a wheelchair, or may require an interpreter who specialises in appropriate sign languages or hearing aids.
- It would be good to think about the Court and how it may appear to a small child and consideration could be given to adjusting the layout of the witness area, with respect to height of seating arrangements.
- A major concern for young witnesses is seeing the defendant. A chance meeting could seriously undermine the witness's ability to give evidence. In recent cases the court staff have, given the various exits and entrances at court, managed this well.
- Ideally a young witness should be able to arrive at Court and go immediately to a prearranged room where they can wait until called to give evidence. Any new Court should be designed in ways to ensure the young witness feels safe and there is no contact between the witness and the defendant.
- It is not always appropriate for young witnesses to give evidence in the presence of a parent/carer. If a witness was giving evidence by a live link consideration needs to be given to have a waiting room for parents/carers. Waiting rooms should ideally be as comfortable and 'homely' as possible, including en-suite toilet facilities, a TV/Video, and perhaps a small kitchen for hot drinks. This is really important as with the best intentions Courts are intimidating places even for professionals.

Both Children Board staff and the NSPCC have found the Guernsey Court and staff sensitive to the needs of children, and offer every support in minimising the trauma for child witnesses as far as possible within the current setting.

Yours sincerely,

DEPUTY MRS. JEAN PRITCHARD,

President,

States Children Board.

The President  
 States Board of Administration  
 Sir Charles Frossard House  
 La Charroterie  
 St Peter Port  
 Guernsey  
 GY1 1FH

20th September, 2002.

Dear Deputy Berry,

### **EXTENSION AND REFURBISHMENT OF ROYAL COURT**

I refer to your letter of 27 August and 5 September 2002 concerning the above.

This letter refers specifically to the current deficiencies of the existing Court building and the benefits that can be achieved from new accommodation.

### **POLICING ISSUES**

The Chief Officer of Police has provided me with a report updating me on his security and safety concerns as regards the use of the present building as a venue for courts and for meetings of the States of Deliberation. He has not confined his comments to the Police as users of the building. He clearly has a duty as regards the safety and security of all users of the building as a court and as a venue for meetings of our legislators. It is the duty of the Guernsey Police to protect the life and property and prevent crime.

I trust that States Members and yourself will understand that it is not in the public interest to go into every detail of the Chief Officer's concerns. The last thing that we should do is provide information that would assist a person who might threaten the safety and security of users of the building.

If you or any States Member requests more detailed explanation I would ask them to contact the Chief Officer direct.

### **(A) The use of the Royal Court Building as a venue for Criminal Courts**

There are a number of developments that have increased general visits to users of our Criminal Courts. These include:

- (i) Dealing with more very serious crime and criminals. This is particularly relating to persons charged with Drug Trafficking offences many of whom are involved in serious organised crime in other jurisdictions.
- (ii) A general decline in standards of public behaviour and in particular in respect of the judiciary and officers of the court. This manifests itself in forms ranging from aggression from persons appearing before the Court to unruly behaviour in the public gallery.

Factors that apply to particular Court users are as follows:—

- (i) **The Judiciary** – Current best practice is to separate the Judiciary from the general public and indeed other court users within the Court Building. This is not just a question of safety and security but it is a symbol of the independence of the judiciary from other Court users within the criminal justice process. The current layout of the Royal Court Building precluded this arrangement with particular reference to the Royal Court Chamber and the Court Ordinance.



- (ii) **The Court Staff** – HM Greffier, HM Sheriff and HM Sergeant and the staff fulfil functions that require them to be in direct contact with Court users including persons who are appearing before the Court. There is currently insufficient dedicated properly designed accommodation within which they may safely discharge these duties.

- (iii) **Witnesses**

It is vital to the functioning of the Criminal Justice System that witnesses will readily agree to give their evidence in our criminal courts. The current lack of separate accommodation for witnesses exposes them to the risk of improper pressure or intimidation from the accused or their friends.

This concern is particularly acute in respect of vulnerable witnesses such as children and young persons. There is a need for accommodation for such witnesses and their carers, for example Victim Support staff.

- (iv) **Other Court Users** – under this heading I would include Advocates, Probation Officers, Social Workers, Police Prosecutors and the general public. All these people need to be safe and secure from threats which experience suggests can range from accused persons appearing before the Court or persons in the public gallery. Modern best practice can achieve a level of safety and security by Court design, for example segregation and screening. The layout and design of our current Court Rooms does not conform to those standards.

- (v) **Accused Persons before the Court**

The comments of the Prison Governor (attached) relate specifically to security and safety issues as regards prisoners. There may be persons appearing before the Court who are not produced from custody. They may be vulnerable to attack from aggrieved members of the public in cases where emotions run high. Security issues arise when the disposal of the Court involves a custodial disposal. The current layout of the chambers used for criminal courts does not conform with current best practice as regards design.

## **(B) The Royal Court Building as a venue for Civil Courts**

Many of the concerns relevant to the Criminal Courts also apply to the Civil Courts. In particular hostility can manifest itself between litigants or towards the judiciary.

## **(C) The Royal Court as a venue for Meetings of the States of Deliberation**

There is no history of political violence in Guernsey, however, some of the issues discussed in our legislation raise strong feelings amongst the public. It is clearly very important that members of the public have access to States debates but there should be facilities for close supervision of the public to ensure the safety of States Members is maintained and that proceedings of the House are not disrupted.

The design of the present building does not lend itself to access control or security checking.

The Chief Officer advised me that the above represents only a summary of the main points of concern.”

As aforementioned, the comments submitted by the Prison Governor are attached.

Yours faithfully,

M. W. TORODE,

President,

States Committee for Home Affairs.



## COURTS

Over the past few years discussions have taken place over the existing lack of facilities in place for the safe keeping of both staff and prisoners at the Courts. It was highlighted then that the change in type of prisoner was creating a difficulty to manage using the existing court area. The limited cells and interview area provided at the moment with no CCTV cover and no additional Court security staff has unfortunately been detrimental to the control of prisoners and has resulted in difficult situations occurring. Both staff and prisoners are unfortunately open to abuse and attack in both the Royal & Magistrates Courts. The Court timetable has now expanded and there is a requirement to man courts on a daily basis. At present the Prison has 32 remanded prisoners compared to 15 three years ago. The type of prisoner that we are now holding requires considerably more efficient security measures to be able to guarantee the safety of the public. The present custody suite is unable to provide the necessary capacity for the courts at present running within the building. There are no facilities for the transfer, or handing over, of prisoners from court officials to custody officers. The ability to keep prisoners out of public view in accordance to the Prison Ordinance is extremely difficult to comply with, as the area used to take prisoners back and forth from the custody area below the Magistrates Court to the Royal and other courts utilised as the Magistrates Court, is open to the general public. This means of course that the public that come into the court area do so at their own free will, as there is no security on entry into the court building. There is also a noticeable lack of co-ordination of the courts, which exasperates the difficulties incurred by the prison service in producing staff at the right security level at short notice. The access to and from the Courts through the old prison is becoming dangerous and will shortly be inaccessible. The Prison staff are employed to look after the safe custody of prisoners and to ensure they do not escape. They are not there for the security of the court and its staff.

T Wright  
Prison Governor

**APPENDIX 2**

The President  
States Board of Administration  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

11th September, 2002.

Dear Deputy Berry,

The Chief Officer of Police and the Prison Governor have recently advised the Committee of the lamentable lack of security within the Royal Court building.

The Committee understands that there are continuing discussions on this matter but it appears that these have yet to result in improvements on the ground.

I would therefore be grateful if you could advise me of the anticipated timetable for improving security arrangements within the Royal Court building.

Yours faithfully,

M. W. TORODE,

President,  
States Committee for Home Affairs.

## LAW OFFICERS OF THE CROWN

The President  
Board of Administration  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey

4th September, 2002.

Dear Sir,

### **Extension and Refurbishment of the Royal Court**

Thank you for your letter of 27th August. You will undoubtedly appreciate from your experience of many major capital projects that those most closely involved in the delivery of essential public services often feel passionately that appropriate facilities and systems must be provided and maintained in order to permit the effective and efficient delivery of those services in the vital interests of their users, and ultimately of the whole community. I am quite sure that health professionals and teachers rightly feel that way about hospitals and schools for example. Health and education are universally acknowledged as vital to the wellbeing of a civilised society; the fair and effective administration of justice is no less vital. I do hope that those citizens who are lucky enough to go through life with little or no involvement with the judicial system are able to understand (just as people who have no children or enjoy good health appreciate the social indispensability of good education and health services) that the guarantee of justice for all, delivered in a timely, fearless and impartial manner, is the very bed-rock of civilisation; and that the absence of the necessary facilities to provide that guarantee would ultimately impact on the entire community in a fundamentally adverse way. I am passionate about the administration of justice, and of course I support the proposals for additional accommodation and improved facilities. It is proper, and indeed essential, that the community's elected representatives should give careful consideration to the extent and cost of the provision which needs to be made; but, from the Law Officers' perspective, the case for both additional accommodation and improved facilities seems quite incontrovertible.

Your letter of 27th August addresses security related issues before proceeding to accommodation and facilities generally, and I will endeavour to respond within a similar framework.

### **Security related issues**

It would be wrong to think in terms of security only in the context of serious criminal cases. In less serious criminal matters, public law proceedings such as child care cases, disputes between husband and wife, landlord and tenant, employer and employee, and really just about anything else that comes before the courts on a contentious basis, feelings can be running fairly high, and the safety of parties, witnesses, judiciary, lawyers, police, prison and probation officers, court officials and the general public should always be taken into consideration. Also, although your advisers will be fully aware of what is required by way of security in a 21st century court complex, and I doubt that anything I can say will add greatly to their wisdom. I do think you are right to make the additional point that States Members (and, I would add, members of the public attending States meetings) are entitled to a level of protection.

Having said that, it is quite true that the most serious criminal cases (both at trial before the Royal Court and in pre-trial hearings, which may be before the Magistrate) do give rise to security concerns which are both enhanced in degree and to some extent of a different nature than those common across a wide range of litigation. It would not, I think, be accurate to infer that really serious crime is either endemic or growing at an alarming rate in Guernsey. But it is quite right to say that, particularly as regards drug trafficking, the likelihood of very major figures in the world of organised crime being arrested and having to stand trial in Guernsey (in no small part due, paradoxically, to the success of our enforcement agencies in limiting

importations and the consequent high street prices of Class A drugs) is very real and increasing. It is therefore imperative that facilities are provided in the redeveloped court complex to conduct hearings involving such individuals safely and securely. As to precisely what that should involve you will obtain better guidance from your advisers who are expert in high security court design. I can merely say that, although such cases will hopefully remain few and far between, that level of security must be available as and when it is required.

In the day to day criminal business, and in the potentially more fraught civil business, of our courts, there is perhaps room for a rather more balanced approach; and you may be advised, by others much more expert than I, that acceptable levels of security can be achieved in these cases without measures which maybe counter-productive through making defendants accused of less serious crime feel like maximum security prisoners or conducting ordinary civil litigation in a Colditz like environment. But it goes without saying that all persons present in court need to be, and to feel, free from any threat of violence or intimidation; that children and other vulnerable witnesses, and indeed parties should not be frightened about attending and giving evidence; and that both unpleasant conflicts and actual or perceived compromising of the truth should be avoided by the separation of witnesses to be called on behalf of opposing parties.

#### **Accommodation and facilities generally**

There are at present, quite simply, not enough adequately equipped court rooms (and, although this is not what your letter is about, not enough judges). Of the existing courtrooms, the Cour Ordinaire is wholly unsuitable for criminal matters; the security and facilities of the magistrates court could probably be improved, but access is a real problem and I doubt that the room itself is big enough for a Royal Court criminal trial; leaving the Royal Court Chamber, whose layout is really more suited to States Meetings than court sessions, and where the facilities for a major criminal trial are, to say the very least, less than ideal. In any event, the court complex must accommodate at least one properly equipped secure chamber where the Royal Court can sit whether or not the States of Deliberation are meeting; one secure full time magistrate's court; at least one further court room where Court of Appeal criminal matters and Magistrate's Court cases can be dealt with; and sufficient further court facilities to enable all of the courts' civil business to be efficiently handled in an appropriate environment; if not also - and I do believe there would be merit in making the design sufficiently flexible to accommodate this for the future - appropriate hearing rooms and related facilities for the increasing number of statutory tribunals and perhaps even mediations and arbitrations.

Witnesses should, of course, be segregated; so far as possible steps should be taken to avoid undue contact between those involved in criminal matters and other court users, especially children and other vulnerable groups; clearly the judiciary must be separated from parties and witnesses, and the judges (including Court of Appeal Judges and visiting Lieutenant Bailiffs) must all be provided with the accommodation and facilities which they need in order to work efficiently. There should be facilities (secure where necessary) for clients to confer with their lawyers. And appropriate use should be made of modern technology including, but not limited to, video-enabled courts.

Your other consultees will doubtless identify many other issues as, of course, will your expert advisers.

Yours faithfully,

H. E. ROBERTS,

H.M. Comptroller.

**GUERNSEY BAR COUNCIL**

R.C. Berry, Esq., OBE,  
President,  
States of Guernsey Advisory and Finance Committee,  
Sir Charles Frossard House,  
P.O. Box 43, La Charroterie,  
St Peter Port,  
Guernsey,  
GY1 1FH.

17th September, 2002.

Dear Deputy Berry,

**Extension and Refurbishment of the Royal Court**

Thank you for your letters of 22nd August and 5th September 2002.

The view of the Bar Council is that modernised and efficient Court space will greatly assist the administration of justice in the Bailiwick. There is very great pressure on the existing Court facilities. The amount and complexity of litigation has increased substantially and is likely to continue to do so. It is not just a question of litigation generated locally but also litigation generated by Guernsey's finance industry; for example disputes concerning the activities of Guernsey tax exempt companies or disputes concerning documents with Guernsey law and jurisdiction clauses. The ability of the Island to deal with litigation efficiently is very important to its overall standing as an international financial centre of excellence.

Particular concerns for the Bar are the provision of a suitably sized and adequate law library together with adequate consulting rooms in order that clients can be met and interviewed in the Court buildings. At present there are no facilities to talk confidentially to clients at Court.

It is felt that the civil function of the Courts should as far as possible be physically divided from the criminal Courts. It would be inappropriate for visiting professionals and clients in heavy commercial cases to have to share the same space as the Monday morning attendees for the Magistrate's remand court.

There is a potential saving of space to be made if older records were no longer stored at the Greffe. If electronic access were provided a substantial proportion of the records could be stored off-site. There is concern currently as to the security of Greffe records. The better use of information technology should be a key part of the proposed development of the Courts.

The Bar is concerned in a more general sense that any new Court facilities should be built to a high design and quality standard. This will be a flagship building for the Island intended to last for a very long time indeed (as you know, the current building has served for 200 years). There is also a concern to preserve the traditional values of Court architecture within the new Court rooms themselves whilst taking advantage of modern technology to promote efficiency. Recent Court developments in England and Wales have met with mixed success. It is important that the new Courts impress anyone who uses them.

Yours sincerely,

M.J.S. EADES.

Mr R.C. Berry OBE  
President  
Board of Administration  
Sir Charles Frossard House  
PO Box 43  
La Charroterie  
St Peter Port  
GY1 1FH

10th September 2002

Dear Sir

**RE: EXTENSION AND REFURBISHMENT OF THE ROYAL COURT**

I refer to your recent letter regarding the extension and refurbishment of the Royal Court requesting my up to date views in respect of current facilities in the Courts.

I have for many years been concerned regarding the safety of the staff of this office whilst carrying out their duties in the Courts due to the lack of security and other facilities. There is no secure area available for the collection of fines and no facilities to carry out confidential interviews including the arrest of fines defaulters. The lack of any facilities to carry out the aforementioned duties confidentially in a secure area is clearly unacceptable.

With regard to office accommodation it is essential that the office of H.M. Sheriff and H.M. Sergeant is located as close as possible to the Court in order that staff can attend at short notice for various reasons including maintaining order and assisting in the detention and removal of prisoners as required. The integration of the office of H.M. Sheriff and H.M. Sergeant into the new Court complex will enable greater flexibility in the use of staff.

I believe that the delay in providing proper facilities for the Courts has contributed to the ever increasing lack of respect for the Courts and staff. The provision of sub-standard facilities for the general public often results in the public treating the facilities and staff accordingly. The extension and refurbishment of the Courts to a high standard is essential and will help to return the Courts to their rightful dignified position.

Yours faithfully,

W. A. WALKER,

H.M. Sheriff.

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

3 October 2002

Dear Sir

I refer to the letter dated 26 September 2002 addressed to you by the President of the Board of Administration on the subject of Extensions and Alterations to the Royal Court.

Having received the policy letter, the Committee received representations from both the Island Development Committee and the Heritage Committee on the results of the selection process for the Design Team and on the possibility that part of the Old Prison site could be retained under one of the design concepts that was submitted.

Representatives of those committees along with representatives of court users, of which you were one, attended the Advisory and Finance Committee meeting at which the Board's proposals were discussed. At that meeting the Board of Administration's technical advisors gave a presentation on the process for inviting the submission of design concepts and for the subsequent assessment of those submissions by a technical panel.

The Board's technical advisers explained that, whilst a design concept which retained part of the Old Prison site was initially attractive, subsequent assessment by technical professionals and court users had shown that it did not meet requirements for the future efficient and secure functioning of the courts and associated activities. Although some of the inadequacies identified could be rectified at a cost which took the project considerably above the price cap, it was felt that the general design concept could not be made to work adequately.

The Advisory and Finance Committee commends the Board of Administration on its approach to ensure the delivery of this project within a fixed budget although it is seriously concerned at the anticipated high construction costs of the scheme compared to the UK as highlighted in the policy letter.

The Committee considers that the process involving a technical panel to select a Design Team was undertaken thoroughly and competently and it has not been persuaded that the results of that process, as reflected in the Board's proposals, are flawed. The States have on two previous occasions accepted the pressing need for additional court accommodation and approved in principle the construction of new courts on the Old Prison site. The Advisory and Finance Committee also considers that the extension and alteration to the Royal Court must be undertaken in such a way as to provide not only for current but also future requirements and that trying to shoehorn accommodation into a restricted area is not acceptable.

The Advisory and Finance Committee unanimously supports the need for the extension and alterations to the Royal Court and, by a majority, supports the Board of Administration's proposals for achieving this.

It can be seen from the attached letter dated 3 October from the President of the Heritage Committee and the Vice President of the Island Development Committee that they question the way the process was undertaken and dispute its outcome. The representatives of those committees who attended the Advisory and Finance Committee meeting asked that the Board's policy letter should be delayed whilst further assessments were undertaken which the Board, as is its right, refused to do. The committees are now asking that an independent assessment be undertaken and the representatives of those committees agreed that they would be bound by the outcome of such an assessment.

Whilst supporting the Board's proposals and its decision not to delay submission of the policy letter, the Advisory and Finance Committee has agreed to request the Lord Chancellor's Department, which has access to a wide range of technical and court procedures expertise, to undertake an audit of the process to appoint a Design Team and its outcome paying particular attention to the points raised in the letter from the President of the Heritage Committee and the Vice President of the Island Development Committee. The results of that audit will be available by the time the States debates the proposals.

On a more general note, States Members will recall that in approving this year's Policy and Resource Planning Report, the States resolved that funding for specific and prioritised major capital projects, including the Royal Court project, was to be made available from the Capital Reserve as and when required. It is emphasised that the purpose of the Capital Reserve is to provide a means of funding future capital projects within a controlled and prioritised framework; it is not a reserve to be raided by individual committees at will, particularly since the Capital Reserve is insufficient to meet the cost of all major States Projects planned for the foreseeable future.

When considering projects Members must be aware that any use of the Capital Reserve to fund a specific project will inevitably mean that there is less money available to fund other projects which may result in these being scaled down, delayed or cancelled. To assist Members in assessing the priority of a specific project to be funded in part or in full from the Capital Reserve the Committee believes that it should become standard practice for Members to be informed of the balance on the Capital Reserve at that time and, as far as is known, other likely calls on it. This is a process that the Committee believes will increase in sophistication once the States Strategic Property Plan and Capital Expenditure Programme have been formulated.

The funding for this project, in line with the above principle, will be met from a transfer of £14,500,000 out of the Capital Reserve. As at the end of September 2002 the Capital Reserve had a balance of £113,000,000. The Committee is aware that out of this Reserve, funding for a number of projects including the Alderney Breakwater, the Education Council's and the Board of Health's Site Development Plans, Housing Developments and the Energy from Waste Plant, may also be required. If projects are brought forward within the timescales currently projected, the Committee estimates that the Reserve will need to provide in excess of £200m in the next three or four years.

Whilst asking the States to note these funding implications the Advisory and Finance Committee, by a majority, recommends the States to approve the proposals which will provide the necessary facilities for the administration of the Island's system of justice.

Yours faithfully,

L.C. MORGAN,

President,

States Advisory and Finance Committee.



**Heritage Committee  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey  
GY1 1FH**

**Island Development Committee  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey  
GY1 1FH**

Our Ref: A2.113

The President  
Advisory & Finance Committee  
Sir Charles Frossard House  
PO Box 43  
La Charroterie  
St Peter Port  
Guernsey

3rd October 2002

Dear Deputy Morgan

## **ROYAL COURT DEVELOPMENT**

Thank you for the opportunity to attend the meeting of Advisory & Finance Committee today to discuss the Board of Administration's draft policy letter on the "Extensions and Alterations to the Royal Court".

We would like to reiterate that both Committees have always supported the provision of these important new facilities, although we have taken a particular view on how it should be achieved. However this debate was essentially settled by the States' resolutions of December 2000.

As you know, we were invited to observe the selection process for a design team for the development. You will appreciate that both Committees approach this process from the viewpoint of their mandates which, in the case of Heritage Committee is the preservation of scheduled structures and, in the case of the IDC, is the impact of this development on the townscape of St Peter Port. Having viewed the presentations of the shortlisted design teams, both Committees came to the view that one scheme, by MacCormac Jamieson Prichard (MJP), which proposed to demolish St James Chambers and construct the courts on the lower site around the Royal Court, had the potential to resolve most heritage and townscape concerns and to provide fully functional, modern courts. This view seemed to be shared by the lay members of the panel, by the CABA enabler and, with some reservations, by other members of the panel.

It is our understanding that the further investigation of that scheme carried out by the technical members of the panel concluded that it fell short of the brief in a number of important respects. At a meeting of the selection panel that representatives of both Committees attended on 25th September 2002, the lay members and the CABA enabler appeared to take a different view.

The CAGE enabler, in her letter to the President of the Board of Administration of 25th September, 2002, and copied to our Committees, confirms her concerns and, consequently, the doubt in the minds of both our Committees on whether the assessment of the MJP scheme did justice to its potential.

It appears to both our Committees that the retention of some of the most significant scheduled buildings and the ability to set the building lower on the site, are prizes that warrants further independent investigation. In effect the MJP scheme has questioned the basis on which the States' decision in 2000 was made. Our Committees' fundamental concerns as a result of its observation of the process are:

(1) That the format of the competition and restrictive nature of the brief have worked against an imaginative interpretation of the options unless they, in part, challenge some of the brief's assumptions. As a result the assessment seems to have focused too narrowly on matters of detail that would normally be resolved at a later date (as the tender brief makes clear) rather than on whether the brief itself has been too narrowly defined.

(2) The proposal in the draft policy letter to introduce a reserve preferred architect, and other departures from the competition brief by the Board of Administration, are inadequately explained. The policy letter does not appear to set out the assessments of the competing schemes in an impartial manner, nor are all the recommendations of the selection panel made clear.

In the light of the above the committees have concluded that an independent assessment of this development is required before the matter is decided by the States. Should the Advisory and Finance Committee be unwilling to undertake this task, the Heritage Committee, with the support of IDC, may commission its own independent report.

Yours sincerely,

CLAIRE LE PELLEY,  
President,  
Heritage Committee.

PATRICIA MELLOR,  
Vice President,  
Island Development Committee.

The States are asked to decide:–

XIV.–Whether, after consideration of the Report dated the 26th September, 2002, of the States Board of Administration, they are of opinion:–

1. To agree to the extension of the courts as set out in that Report at a total cost not exceeding £17,500,000, including £3,000,000 voted in December 2000 (Billet d'Etat XXV, 2000).
2. To direct the States Board of Administration to proceed with HBG with Nicholas Hare Architects as the preferred architect-led design team and to negotiate terms between HBG (or Lovell Ozanne as the reserve team as outlined in section 8 of that Report) and prospective contractors, subject to the approval of the States Advisory and Finance Committee.
3. To direct the States Board of Administration to issue tender documentation for a two-stage design and build contract to R G Falla Ltd, John Mowlem (Guernsey) Ltd, and Alfred McAlpine Special Projects within the maximum figure as outlined in that Report.
4. To instruct the States Board of Administration Board to appoint a main contractor for the above project from one of the three Companies named in proposition 3 above, under a two-stage design and build contract incorporating the design team, subject to the approval of the Advisory and Finance Committee.
5. To direct the States Board of Administration to appoint other professionals, to procure works, investigations and surveys, and to accept tenders and enter into any necessary contracts as may be necessary to execute this project, subject to the approval of the States Advisory and Finance Committee where appropriate.
6. To vote the States Board of Administration a credit of £14,500,000 to cover the cost of the above, which sum shall be charged to that Board's capital allocation;
7. To authorise the States Advisory and Finance Committee to transfer the sum of £14,500,000 from the Capital Reserve to the capital allocation of the States Board of Administration.

# STATES EDUCATION COUNCIL AND STATES BOARD OF INDUSTRY

## TRAINING AGENCY – FUTURE FUNDING

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

13th September 2002

Dear Sir

### **TRAINING AGENCY – FUTURE FUNDING**

#### **Introduction**

1. Since its establishment in 1999 the Training Agency has played a significant role in helping local employers and employees identify and meet their training needs thereby enabling them to become more competitive and productive.
2. In the short period of time that it has operated, the Training Agency has established a role in helping to guide local companies in the right direction for securing quality training. In particular it has greatly assisted those employed in the Bailiwick's Financial Services Sector to secure high-quality training, seminars and workshops on a range of topics, many of which are required to comply not only with the regulatory requirements of the sector but also the aspirations of their employers to increase market share and profitability.
3. It has also developed an excellent working relationship with the College of Further Education ensuring there is little duplication in their areas of responsibility. The working relationship is enhanced by the Principal of the College of Further Education being both a Director of the Agency and a member of the Training Agency Commercial Sector Advisory Group. Two Directors of the Agency are also members of the College of Further Education's College Development Committee. This integrated approach combined with the Agency's wide knowledge of local and UK training providers within the private sector has ensured that access to focused training has been made as simple as possible.
4. In order to build on this success, the Training Agency requires continued support from the States of Guernsey from the year 2003 onwards.
5. On 28 April 1999 the States, having considered a Policy letter from the Advisory and Finance Committee addressing the merger of the Guernsey Training Agency and the Finance Training Agency, resolved that the Education Council and the Board of Industry would report back to the States before the end of 2003 on the work of the Training Agency and on future support from the States for its work.
6. However, as a consequence of what is now regarded as a drafting error, the policy letter provided for the funding of the Training Agency up until the end of 2002. Accordingly recognition of this misalignment of dates has prompted the Education Council and the Board of Industry to provide this report in order to propose funding for the Training Agency for the next three years from January 2003. This interim report precedes a joint policy letter from the Board of Industry and the Education Council reviewing the work of the Training Agency and its relationship with the Business School of the College of

Further Education and putting forward proposals for the long-term strategic direction and funding of the Training Agency. The joint policy letter will be brought to the States before the end of 2003.

### **Background**

7. The Training Agency was established in 1999 following consideration by the States of a policy letter submitted by Advisory and Finance Committee entitled "*The Guernsey Training Agency, Finance Training Agency and Future Training Policies*". That policy letter detailed the background to the potential merger of two agencies under the title Training Agency, and specified the funding arrangements and the structure of the organisation. In essence, the States agreed that the merged agencies would provide a partnership between the public sector and commerce on training provision, and should be subject to a corporate structure similar to that already established for the Finance Training Agency.
8. Following agreement by the States and as a result of further discussion between interested parties;
  - the Agency was established as a Charitable Trust with the trustees comprising representatives nominated by the Board of Industry, the States Education Council, and the Guernsey Financial Services Commission.
  - The work of the Agency is governed by a Board of Directors not exceeding 12 members and comprising an officer of the Education Council, and the Board of Industry and representatives of the financial and commercial sectors. The nominations for which are offered to the trustees of the Agency by the Guernsey Financial Services Commission, the Education Council and the Board of Industry. A list of Directors is appended. (Appendix A attached)
9. The fixed annual funding arrangements established in 1999 for the period 1<sup>st</sup> January 2000 to 31<sup>st</sup> December 2002 were:
 

a) Advisory and Finance Committee contribution from general revenue:	£150,000 per annum
b) Advisory and Finance Committee provision of Nelson Place accommodation at notional rent of:	£ 50,000 per annum
c) Guernsey Financial Services Commission on behalf of the finance industry equates to:	£200,000 per annum
	<hr style="width: 100px; margin: 0 auto;"/> Total <u>£400,000</u> per annum

### **Achievements**

10. Against a background of having to operate on a reduced budget year on year (taking into account inflation), the Training Agency has proved to be highly successful in facilitating quality training, arranging seminars and workshops and generally increasing the understanding of employers and employees of the positive benefits of training.
11. During 2001, the training centre at Nelson Place, St Peter Port, has operated at full capacity with many larger events having to take place at outside locations. At the end of last year the Agency had 715 student members who made 2,731 study visits to the centre. The Agency coordinated 250 training events, attracting over 2,500 delegates in total. Additionally, 140 examinations took place over 50 days during which 600 candidates were examined on a range of award bearing programmes.

12. The Agency has, through facilitating a comprehensive range of award bearing programmes, met the needs of both the commercial and finance sectors. Programmes undertaken include:
  - Advance Certificate in Marketing Management Practice
  - Introductory Certificate in Management (awarded by the National Examining Board for Supervision and Management)
  - The Institute of Directors, Company Direction Programme
  - Post-Graduate Diploma in Personal Management/Graduate of Institute of Personnel and Development
  - MSc in Corporate Governance/GradICSA
  - Regulation and Compliance Module of the Securities Institute Diploma
  - Foundation and Diploma Programmes in Offshore Trust Management
13. A number of short courses were designed to meet the training requirements of GMEX member companies. These have covered areas such as project management and presentation skills which again attracted a high number of delegates.
14. The Agency also manages the Investors in People Standard on behalf of the Board of Industry. Currently the cost of IIP management undertaken by the Agency is met from Board funds. Participation in Investors in People has helped more than 20 organisations locally to work towards the IIP Standard which gives them an opportunity to benchmark themselves against UK companies in terms of staff development.
15. In addition, workshops and seminars were arranged to increase participants' awareness of issues such as: the prevention of money laundering, demystifying hedge funds, Guernsey Company Law, Data Protection and many others.
16. As the role of the Agency has become recognised, it has found itself being relied upon increasingly by those organisations which are required by regulatory demands to demonstrate that staff through a programme of continuous personal development, are fully qualified to meet the demands of the business. If Guernsey is to continue to succeed in demonstrating to the outside world that it is a sophisticated environment within which to conduct business, it is essential that access is secured to quality training in order to demonstrate expertise and subject knowledge in the sector for which they are employed.
17. In early 2001 the long-term strategy of the Training Agency, future training demands, IT strategy and office accommodation needs were considered by the Board of Directors. Whilst acknowledging that the Agency had been extremely successful to date under the guidance of an Executive Chairman appointed on a part-time basis, the Board recognised many challenges facing the Agency and agreed that a full-time Chief Executive should be recruited, subject to budget approval to ensure that the demands being placed upon the Agency were realised.
18. Through a search and selection process, the Agency secured the services of Professor Richard Conder, former Pro-Vice Chancellor of Bournemouth University, as its first full-time Chief Executive. Professor Conder took up his position early in 2002 and, through consultation with key stakeholders, has refined and developed the Agency's strategic plan for the period 2003 to 2007. (Appendix B attached)

### **The Future**

19. The vision of the Agency is that by 2007 it will become one of the hubs of a learning network identifying, creating and facilitating a wide portfolio of qualifying programmes and continuous professional development particularly in its core specialisms of financial services, commercial management, information technology and e-business. Working

with partners on and off the Island it aspires to be recognised for its research, speed of response, quality of provision and cost effectiveness.

20. It will draw on the solid foundation that has already been established, although as a priority it will further develop a wide circle of partners to deliver, accredit, validate and quality assure the programmes that are facilitated through the Agency.
21. The Agency believes that its role is complementary to the work of the Guernsey Business School which is administered by the College of Further Education with both organisations being critical to the success of Guernsey as the pace of economic change accelerates.
22. The Agency's ambitious but realistic targets to be achieved before the end of 2007 include:
  - To work with partners to increase the number of people participating in training to comparative participation rates as those of the UK
  - To respond to industry calls for increasing numbers of training events held locally securing employee awareness of relevant job related issues
  - To provide opportunities for distance and computer-aided learning and review the possibility of utilising video conferencing as a training method
  - To ensure every course portfolio is reviewed and changed if appropriate to meet the needs of all sectors of the community
  - To increase the number of students registered with the Agency ensuring that access to training is open to all.

These targets will be discussed by the Board of Industry and the Education Council and reported on in full in the joint policy letter to be submitted to the States in 2003.

23. The objectives that the Training Agency has identified take account of the training needs brought to the Agency's attention by key stakeholders and reflects the Island's need to remain competitive. The facilitation of training will be particularly focussed on:
  - Regulatory requirements on the finance industries
  - Development of training initiatives aimed at supporting the findings of the Board of Industry's recent research into the Construction Industry
  - Leadership and management skills
  - Tourism/hospitality and catering
  - Retailing and retail management
  - IT and e-business.
24. In addition to the programme of work that the Agency has developed for the future, the current over-demand for training has created an accommodation crisis for Nelson Place. The Agency has therefore evaluated its accommodation needs for the future and the Agency's Chief Executive has sought accommodation which will allow the full range of study events planned to take place – an additional £60,000 has been included in the financial projections for the next three years to meet this requirement. The question of accommodation in the long term will be addressed by the joint report.



### **Funding**

25. As previously mentioned, the Agency has operated within the strict budgetary limits that were set as a result of the fixed annual States grant set out in the 1999 policy letter. In order to realistically achieve the objectives established in the Strategic Plan, the Agency has identified its estimated Financial and staffing requirements for the next three years. (Appendix C attached)
26. In identifying the budgetary requirements for the future, the Board of Industry, the Education Council and the Directors of the Training Agency are keen to secure a funding mechanism that allows the Agency to operate with some degree of security, allowing for its longer term objectives to be met. Accordingly the States are asked to extend and increase the annual grant for the next three years pending the submission of the joint policy letter before the end of 2003. The States are asked to agree to:
  - a) part fund the Agency by means of an annual grant for the next three years,
  - b) channel that grant through the budget of the Board of Industry,
  - c) increase the Board's budget for 2003 accordingly,
  - d) direct the Advisory and Finance Committee to increase the annual grant in line with increases in States budgets generally, but
  - e) subject to the recommendations of the forthcoming policy letter, to provide discretion so that the Advisory and Finance Committee may increase the grant in future years by a greater amount if a suitable case is made by the joint committees.
27. Since its inception the cost of operating the Agency has been shared with the finance sector through contributions made by the Guernsey Financial Services Commission. It is envisaged that the finance industry will continue to support the Agency and the Commission will be discussing the level of funding and the contribution mechanism with the industry in the coming months. Again, this will form part of the information to be submitted to the States in next year's policy letter.
28. In order to ensure that value for money and focus is achieved by the Training Agency, the Training Agency will produce an annual report for publication in the Billet.
29. In order that the Agency can continue to function and to meet the Island's needs for next year and for the foreseeable future, it is proposed that the States contribution set in 1999 of £200,000 is increased to £365,000 for 2003 (inclusive of £50,000 notional rent). A consequence of channelling the rent through the Board of Industry will be that the Advisory and Finance Committee's Budget will be reduced by £200,000. Although the States contribution will be increased to £365,000 the cost of managing Investors in People is already provided for in the Board of Industry's cash limit. Accordingly the Board will require a budget increase of £350,000.

### **Relationship between the Training Agency and the Business School**

30. In the 1999 policy report reference was made to the work in progress at that time by the Education Council on future policies for Post 16 Education. In particular reference was made to the Business School which the Education Council envisaged; "*will be set up with a large degree of independence and be involved in the assessment of training needs and the provision of training to meet these needs on a commercial basis*". The report went on to state; "*All the parties with interests in the GTA and FTA believe that there will need to be close and ongoing communication and cooperation between the Training*



*Agency and the Business School and that ultimately the two might merge to pursue common aims”.*

31. The Education Council and the Board are agreed that at this point in the evolution of both the Training Agency and the Business School:
  - The two entities are complementary; and
  - Mutual support is ensured through the links between the two (including the fact that the Principal of the College of Further Education is a director of the Agency), but
  - The time is not yet right to bring together the Agency and the Business School in some form of merger.
32. Accordingly the Council and the Board propose to return to this matter in the joint policy letter to be brought to the States before the end of 2003.

### **Recommendations**

The Education Council and Board of Industry jointly recommends the States to:

- i. continue to assist the funding of the Training Agency for the next three years by means of an annual grant and that, from 2003, such funding shall be made from the revenue expenditure budget of the States Board of Industry
- ii. agree that the annual grant shall be £365,000 in 2003 and that this sum shall be increased in line with the increase in States budgets generally for the subsequent two years
- iii. authorise the States Board of Industry to submit a general revenue budget for 2003 that exceeds by £350,000 the cash limit approved by the States in July 2002 and to note that the general revenue budget of the Advisory and Finance Committee will be decreased by £200,000, the current level of the States grant
- iv. direct the Advisory and Finance Committee to take account of the annual grant to the Training Agency when recommending to the States revenue allocations for the States Board of Industry for 2004 and 2005
- v. note that the States Education Council and the States Board of Industry will return to the States with a joint policy letter before the end of 2003, reviewing the successes, aspirations and future costs of the Training Agency and the potential for integration of the work of the Business School and the Training Agency.

Yours faithfully,

MARTIN OZANNE,  
President,  
Education Council.

JOHN ROPER,  
President,  
Board of Industry.

**APPENDIX A****BOARD OF DIRECTORS OF THE TRAINING AGENCY**

Mr Keith Corbin	Nerine Trust Company Limited
Advocate Chris Bound	Executive Chairman – Training Agency
Mr Robin Fuller	Collas Day
Mr Dudley Jehan	Rothschild Asset Management (C.I.) Ltd
Mr David Leafe	N P Holdings Limited
	Bank of Butterfield
	Vice Chairman – Training Agency
Mr Nigel Lewis	States Board of Industry
Mr Martyn Mann	Polar Instruments Limited
Mr Peter Marchant	Natwest Offshore
Mr Ian Morris	Bacon & Woodrow
Mrs Mary Perkins	Specsavers Optical Group
Deputy Kevin Prevel	States Board of Industry
Mr Trevor Wakefield	States Education Council



**Strategic Plan  
2002-2007**

**18 July 2002**

## Position Statement 2002

The Training Agency is an unique organisation not replicated in education and training within the United Kingdom or other Crown dependencies. Through a combination of vision and opportunity Guernsey has created an organisation capable of facilitating learning initiatives, which in range and quality bear comparison with specialist business schools in the United Kingdom or United States.

The uniqueness of the Training Agency lies in its role as a facilitator rather than as a provider. This unusual philosophy allows for a direct and close involvement with stakeholders and a speed of response which is and will continue to be critical to the success of Guernsey as the pace of economic change accelerates.

During the course of 2002 it has become evident that demand for training in the finance sector is growing exponentially – political and commercial imperatives, the growth and diversity of the sector and the regulatory framework all serve to emphasise the pivotal role the Training Agency must play in responding to this need. Equally the needs of the commercial sector for a range of generic and specialist courses continue to grow. The needs of Information Technology and e-business at the strategic level remain largely unmet.

In the middle of 2002 the Training Agency is on the cusp of a period of dramatic development – the explosion in the demand (and need) for training both generic and highly specialised provides a remarkable opportunity for the Bailiwick. During the first five years of its existence the Training Agency has shown an average three -fold growth in key performance indicators. This growth in demand is accelerating such that by 2007, if able to respond, the Training Agency will be distinguished by a portfolio of facilitated programmes that would be unique to the needs of the island, capable of rapid change through addition and deletion and of a quality and range which would meet the most exacting standards of quality assurance agencies, professional bodies and academic institutions.

In order to meet the burgeoning needs of the Island the Agency will establish or develop its specialisms in Finance, Commerce, Information Technology and e-business. Given the pace of current change and development it would appear inevitable that new, as yet unanticipated needs will create opportunities for the Guernsey economy. In order to address this eventuality the Agency will need to develop a more sophisticated research arm actively engaged in identifying and anticipating future training needs and securing the infrastructure to address them. The Agency and Guernsey will need to embrace new approaches to teaching and learning equal to delivering a diverse and specialised portfolio of courses in the most cost effective and efficient manner. All of this development is predicated upon the Agency developing a wide circle of partners to deliver, accredit, validate and quality assure the programmes facilitated through the Agency. Because of its facilitating role and the consequent ability to eschew the need for academic staff the Training Agency will facilitate this provision at a fraction of the cost of any alternative means of provision.

## Training Agency Mission

“To contribute to the success of Commerce, Industry and Finance in the Bailiwick of Guernsey by achieving excellence in the facilitation of professional, post-graduate, technical and life-long learning.”

## Values

### ❖ Professionalism –

- Treating people as professionals, and expecting people to behave as professionals
- Integrity and care in the use of funds and resources
- Quality in the facilitation of professional training
- Responsiveness to stakeholder needs

### ❖ Respect for the individual –

- Developing a culture of openness and personal responsibility where individual initiative is encouraged
- The physical environment is aligned with the ethos of professionalism of the Agency

### ❖ Partnership –

- Creating genuine partnerships with clients, suppliers and stakeholders to create best value for all

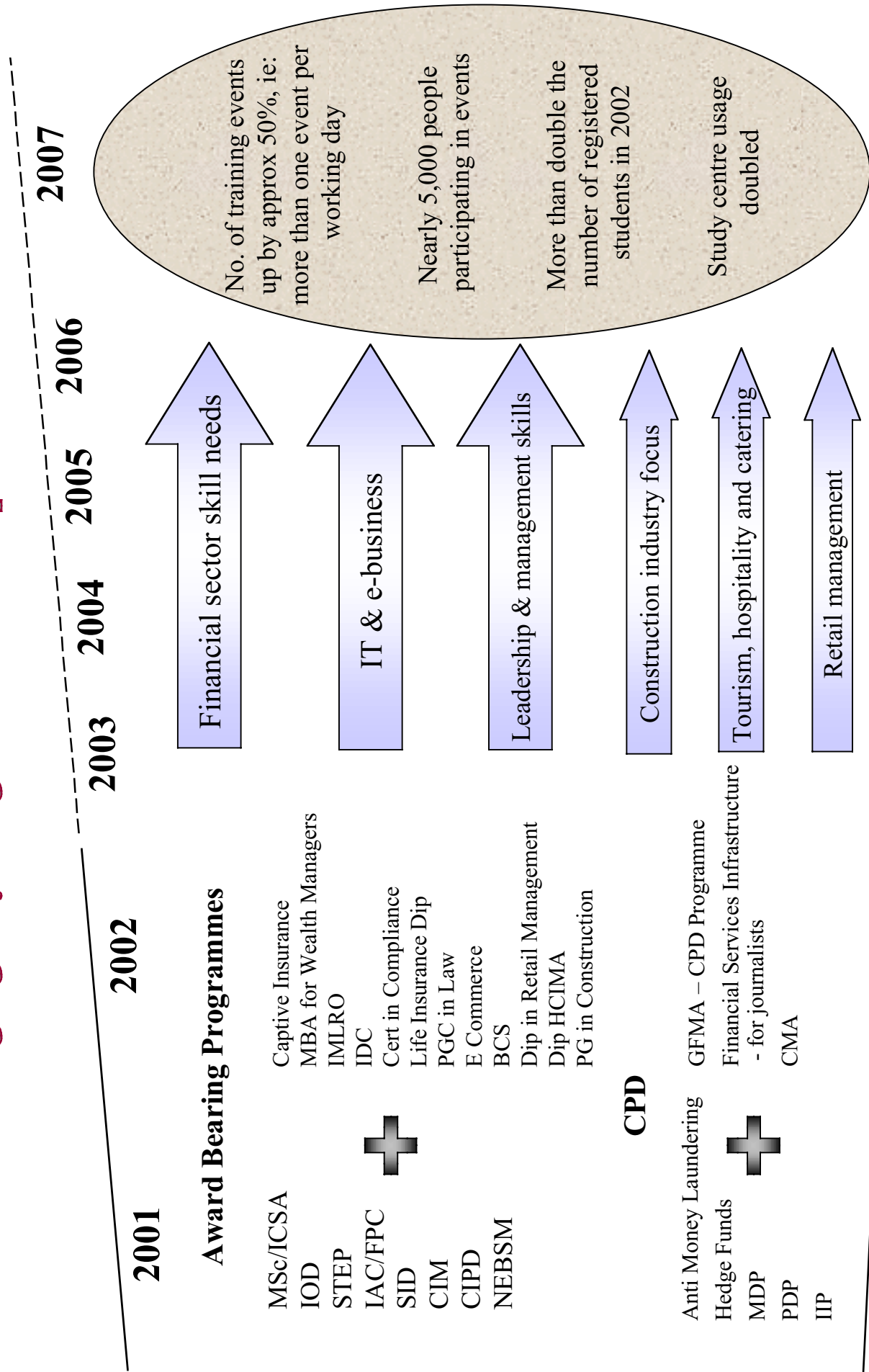
### ❖ Accountability –

- Transparency of communication and information to all the Agency’s stakeholders

## Vision 2007

By 2007 the Training Agency will be a hub of a learning network identifying, creating and facilitating a wide portfolio of qualifying programmes and continuous professional development particularly in financial services, commercial management, information technology and e-business. Working with partners on and off island it will be recognised for its research, speed of response, quality of provision and cost effectiveness. It will comprise an infrastructure recognised to be of high quality and appropriate to its on-island role, committed to maintaining the professional expertise and competence of its staff and recognised nationally and internationally as the model for the facilitation of business education in small, knowledge based island economies.

# Training Agency Programme Development 2002-2007





# Training Agency Balanced Scorecard / KPIs

Financial	
Objectives (by 2007)	Measures/actions
<ul style="list-style-type: none"> <li>Balanced inc./exp.</li> <li>Self-funding by 20%</li> <li>Endowment Trust Fund</li> </ul>	<ul style="list-style-type: none"> <li>Financial control / monitoring</li> <li>Financial control / monitoring</li> <li>Focused approach to sponsors</li> </ul>



Internal processes	
Objectives	Measures/actions
<ul style="list-style-type: none"> <li>Excellent course quality</li> <li>Business impact</li> <li>Value for money</li> </ul>	<ul style="list-style-type: none"> <li>Course evaluations</li> <li>Customer Sat. Survey</li> <li>Period external review</li> </ul>

Client	
Objectives	Measures/actions
<ul style="list-style-type: none"> <li>Student growth to 4,950 by 2007</li> <li>Regarded as responsive</li> <li>Balance of delivery across sectors</li> </ul>	<ul style="list-style-type: none"> <li>Focused actions plans</li> <li>Client feedback</li> <li>Internal monitoring</li> </ul>

Sustainability	
Measures	Goals
<ul style="list-style-type: none"> <li>Enhance brand via partnerships</li> <li>Quality staff</li> <li>Build quality relationships</li> </ul>	<ul style="list-style-type: none"> <li>Seek new partners</li> <li>Personal development</li> <li>Partner feedback</li> </ul>



**STRATEGIC PLAN      2002 – 2007**

**FINANCE AND RESOURCE PROJECTIONS**

## AT 2002 COST

	2002	2003	2004	2005	2006	2007
	£	£	£	£	£	£
Staff Costs	390520	520443	555750	581625	581625	581625
Professional and Other Fees	15000	20000	20000	20000	20000	20000
Electricity, heating and water	4500	5175	5175	5175	5175	5175
Cleaning	3000	4392	4392	4392	4392	4392
Maintenance - premises	7000	7245	7245	7245	7245	7245
Maintenance - IT	18000	19000	19000	19000	19000	19000
Web Site	7000	3000	3000	3000	3000	3000
Auditors Remuneration	4000	4144	4144	4144	4144	4144
Educational Expenses	10000	11385	11385	11385	11385	11385
Promotion	7000	8280	8280	8280	8280	8280
Telephone and Fax	8500	10876	10876	10876	10876	10876
Postage	5000	5175	5175	5175	5175	5175
Stationery	12000	14490	14490	14490	14490	14490
Travel and Entertainment	3000	4347	4347	4347	4347	4347
Other Expenses	15400	15939	15939	15939	15939	15939
Rent for Office	21000	60250	60250	60250	60250	60250
Maintenance Equipment	1500	1553	1553	1553	1553	1553
Refurbishment of Premises	45000					
Total Expenses	577420	715694	751001	776876	776876	776876
Less Surplus on Courses	60000	60000	65000	70000	75000	80000
Net expenses	517420	655694	686001	706876	701876	696876
Less other income	6000	6000	7000	8000	9000	10000
<b>NET EXPENSES</b>	<b>511420</b>	<b>649694</b>	<b>679001</b>	<b>698876</b>	<b>692876</b>	<b>686876</b>

## AT 2002 COST

	2002	2003	2004	2005	2006	2007
	£	£	£	£	£	£
<b>FUNDING SUMMARY</b>						
Course surplus plus other income	-66000	-66000	-72000	-78000	-84000	-90000
Operating deficit	577420	715694	751001	776876	776876	776876
Depreciation	29374	30000	27000	25000	22000	30000
Notional Rent	50000	50000	50000	50000	50000	50000
Total Costs	590794	729694	756001	773876	764876	766876
<b>Funded by GFSC</b>						
Total Grant	295397	364847	378001	386938	382438	383438
Funded as:						
depreciation	29374	30000	27000	25000	22000	30000
Cash	266023	334847	351001	361938	360438	353438
Total	<u>295397</u>	<u>364847</u>	<u>378001</u>	<u>386938</u>	<u>382438</u>	<u>383438</u>
<b>Funded by States General Revenue</b>						
Total Grant	200000	364847	378001	386938	382438	383438
Funded as:						
rent	50000	50000	50000	50000	50000	50000
cash	150000	314847	328001	336938	332438	333438
<b>Additional in year funding</b>						
BOI Direct Funding of Posts	57396					
Training Agency Reserves*	38001					
Total	<u>295397</u>	<u>364847</u>	<u>378001</u>	<u>386938</u>	<u>382438</u>	<u>383438</u>

\* Brought forward from previous year's States Grant

# Summary of Human Resources 2002 –2007

## Staff Numbers

	2002	2003	2004	2005	2006	2007
Chief Executive	1	1	1	1	1	1
Training Managers	3	3	3	3	3	3
Training Co-ordinators	3	4	5	5	5	5
Office Manager	1	1	1	1	1	1
Training Admin/Recpt	2	2	2	3	3	3
Caretaker	0.5	1	1	1	1	1
	----	----	----	----	----	----
TOTAL STAFF	10.5	12	13	14.	14	14

**TRAINING AGENCY LIMITED**

**FINANCIAL STATEMENTS**

**31 DECEMBER 2001**

**TRAINING AGENCY LIMITED****PAGE 1****REPORT OF THE DIRECTORS**

The directors submit their report and the audited financial statements of the company, which is incorporated in Guernsey, for the year ended 31 December 2001.

**DIRECTORS' RESPONSIBILITIES**

The directors are responsible for preparing financial statements for each financial year which give a true and fair view of the state of affairs of the company and of the income and expenditure of the company for that period and are in accordance with applicable laws. In preparing those financial statements the directors are 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 company will continue in business.

The directors are responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the company and to enable them to ensure that the financial statements have been properly prepared in accordance with the Companies (Guernsey) Law, 1994. They are also responsible for safeguarding the assets of the company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

**PRINCIPAL ACTIVITY**

The principal activity of the company is to arrange training for the finance and commercial sectors.

**RESULTS AND DIVIDENDS**

The results of the company for the year are set out in detail on page 4.  
The directors do not recommend a dividend for the year.

**TRAINING AGENCY LIMITED****PAGE 2****REPORT OF THE DIRECTORS****DIRECTORS**

The directors of the company who served during the year were:-

K B Corbin  
 P W Marchant  
 C J Bound  
 D F Leafe  
 R Fuller  
 I Morris  
 N Lewis  
 M Craft (resigned 31 December 2001)  
 M Perkins  
 M Mann  
 D Jehan  
 K Prevel

**AUDITORS**

A resolution to re-appoint BDO Guernsey Limited as auditors will be proposed at the Annual General Meeting.

**APPROVED BY THE BOARD OF DIRECTORS**

K B CORBIN  
 .....  
 Director

D F LEAFE  
 .....  
 Director

## **INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF TRAINING AGENCY LIMITED**

We have audited the financial statements of Training Agency Limited for the year ended 31 December 2001 which are set out on pages 4 to 9. These financial statements have been prepared under the historical cost convention and in accordance with the accounting policies set out on page 6.

### **Respective responsibilities of directors and auditors**

As described in the Statement of Directors' Responsibilities within the Directors' Report the company's directors are responsible for the preparation of the 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 Companies (Guernsey) Law, 1994. We also report to you if, in our opinion, the Directors' Report is not consistent with the financial statements, if the company 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 is not disclosed.

We read the Directors' Report and consider the implications for our report if we become aware of any apparent misstatements within it.

### **Basis of 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 directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's 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 our opinion the financial statements give a true and fair view of the state of the company's affairs as at 31 December 2001 and of its result for the year then ended and have been properly prepared in accordance with the Companies (Guernsey) Law, 1994.

BDO GUERNSEY LIMITED

CHARTERED ACCOUNTANTS  
Commerce House  
Guernsey.

29 APRIL 2002

.....



**TRAINING AGENCY LIMITED****PAGE 4****INCOME AND EXPENDITURE ACCOUNT****FOR THE YEAR ENDED 31 DECEMBER 2001**

	Note			2000
<b>INCOME</b>	2			
PROVISION OF COURSES				
Fees receivable and sundry income		342,743		251,468
Less : direct course expenses		(247,173)		(217,593)
<b>Net surplus of course income over expenses</b>		95,570		33,875
<b>OTHER INCOME</b>				
Funding from the Guernsey Financial Services Commission	2	148,398	164,230	
Funding from the States of Guernsey Board of Industry		111,999	145,889	
Membership fees		900	1,180	
Donations		1,500	3,000	
Other income		2,816	927	315,226
		361,183		349,101
<b>OPERATING EXPENSES</b>				
Staff costs		260,263	268,106	
Professional and other fees		10,738	9,861	
Premises and equipment		34,179	27,708	
Other operating expenses		56,003	43,426	
		(361,183)		(349,101)
<b>RESULT FOR THE FINANCIAL YEAR</b>	2	-		-
Balance brought forward		-		-
<b>BALANCE CARRIED FORWARD</b>		£ -		£ -

**STATEMENT OF TOTAL RECOGNISED GAINS AND LOSSES**

There were no recognised gains or losses for the financial year.

There have been no movements in shareholders' funds during the financial year.

The notes on pages 6 to 9 form an integral part of these financial statements.

**TRAINING AGENCY LIMITED****PAGE 5****BALANCE SHEET****31 DECEMBER 2001**

	Note		2000
<b>CURRENT ASSETS</b>			
Debtors	4	62,290	47,764
Cash at bank and in hand		175,074	84,402
		<hr/>	<hr/>
		237,364	132,166
<b>CREDITORS - AMOUNTS FALLING DUE WITHIN ONE YEAR</b>	5	(237,362)	(132,164)
		<hr/>	<hr/>
<b>NET CURRENT ASSETS</b>		£ 2	£ 2
		<hr/>	<hr/>
<b>CAPITAL AND RESERVES</b>			
CALLED UP SHARE CAPITAL	6	2	2
INCOME AND EXPENDITURE ACCOUNT		-	-
		<hr/>	<hr/>
<b>SHAREHOLDERS' FUNDS</b>		£ 2	£ 2
		<hr/>	<hr/>

**APPROVED BY THE BOARD OF DIRECTORS**

K B CORBIN

.....  
Director

D F LEAFE

.....  
Director

29 APRIL 2002

Date .....

The notes on pages 6 to 9 form an integral part of these financial statements.

**TRAINING AGENCY LIMITED****PAGE 6****NOTES TO THE FINANCIAL STATEMENTS****31 DECEMBER 2001****1. ACCOUNTING POLICIES****(a) CONVENTION**

These financial statements have been prepared in accordance with the historical cost convention. The principal accounting policy which the directors have adopted within that convention is set out below.

**(b) INCOME**

Fees receivable from one off courses are accounted for on the date the course is run. Fees receivable on long term courses are allocated over the length of the course on a term by term basis. Donations and membership fees are accounted for when received.

The funding of the company's net operating expenses by the Guernsey Financial Services Commission and the States of Guernsey Board of Industry is accounted for on an accruals basis.

**2. INCOME AND RESULT FOR THE FINANCIAL YEAR**

Income and the result for the financial year derive wholly from continuing activities.

The net operating expenses of the company for 2001 were met equally by the States of Guernsey Board of Industry and the Guernsey Financial Services Commission, after taking into account (a) the depreciation charge of £13,601 relating to assets used by the company which is suffered by the Commission in its own accounts (see note 8), and (b) a notional rent of £50,000 charged by the Board of Administration in relation to the premises provided by the States of Guernsey to the company .

**3. TAXATION**

The company is classified as a charity under section 40 (k) of the Income Tax (Guernsey) Law 1975 and therefore its income is exempt from Guernsey Income Tax.

**4. DEBTORS****2000**

Amount due from the States of Guernsey Board of Industry	33,738	17,464
Other debtors	21,517	23,855
Prepayments	7,035	6,445
	<hr/>	<hr/>
	£ 62,290	£ 47,764
	<hr/>	<hr/>

The amount due from the States of Guernsey Board of Industry is interest free and unsecured with no fixed date for payment.

**TRAINING AGENCY LIMITED****PAGE 7****NOTES TO THE FINANCIAL STATEMENTS****31 DECEMBER 2001****5. CREDITORS - AMOUNTS FALLING DUE WITHIN ONE YEAR 2000**

Bank overdraft	5,277	12,616
General expense creditors	15,971	28,179
Accruals	18,700	43,761
Fees received in advance	39,746	4,143
Amount due to the Guernsey Financial Services Commission	157,668	43,465
	<hr/>	<hr/>
	£ 237,362	£ 132,164
	<hr/>	<hr/>

The amount due to the Guernsey Financial Services Commission is interest free, unsecured and repayable upon demand.

**6. CALLED UP SHARE CAPITAL 2000**

<b>Authorised</b>		
10,000 ordinary shares of £1 each	£ 10,000	£ 10,000
	<hr/>	<hr/>
<b>Allotted and fully paid</b>		
2 ordinary shares of £1 each	£ 2	£ 2
	<hr/>	<hr/>

**7. CONTROLLING PARTY**

In the opinion of the directors there is no ultimate controlling party as defined by Financial Reporting Standard No. 8 - Related Party Disclosures as no party has the ability to direct the financial and operating policies of Training Agency Limited with a view to gaining economic benefits from their direction.

## TRAINING AGENCY LIMITED

PAGE 8

## NOTES TO THE FINANCIAL STATEMENTS

31 DECEMBER 2001

## 8. RELATED PARTY TRANSACTIONS

The staff of Training Agency Limited are employed by the Guernsey Financial Services Commission and permanently seconded to the company. No rent is payable on the company's Smith Street premises which are provided by the States of Guernsey.

The following tangible fixed assets, which relate exclusively to Training Agency Limited and are situated at its premises in Smith Street, are not included within these financial statements but are included within the financial statements of the Guernsey Financial Services Commission. The depreciation charged in the income and expenditure account of the Commission on these assets in the year was £13,601.

	<u>Leasehold Improvements</u>	<u>Office Equipment and Fittings</u>	<u>Computer Equipment</u>	<u>Total</u>
<b>COST</b>				
At 1 January 2001	51,579	88,046	71,879	211,504
Additions	-	-	21,852	21,852
Disposals	-	-	(34,278)	(34,278)
	<hr/>	<hr/>	<hr/>	<hr/>
At 31 December 2001	51,579	88,046	59,453	199,078
	<hr/>	<hr/>	<hr/>	<hr/>
<b>DEPRECIATION</b>				
At 1 January 2001	50,157	81,067	61,921	193,145
Charge for the year	105	4,460	9,036	13,601
On disposals	-	-	(34,245)	(34,245)
	<hr/>	<hr/>	<hr/>	<hr/>
At 31 December 2001	50,262	85,527	36,712	172,501
	<hr/>	<hr/>	<hr/>	<hr/>
<b>NET BOOK VALUE</b>				
At 31 December 2001	£ 1,317	£ 2,519	£ 22,741	£ 26,577
	<hr/>	<hr/>	<hr/>	<hr/>
At 31 December 2000	£ 1,422	£ 6,979	£ 9,958	£ 18,359
	<hr/>	<hr/>	<hr/>	<hr/>

## NOTES TO THE FINANCIAL STATEMENTS

31 DECEMBER 2001

## 9. SUPERANNUATION

The employees of the Guernsey Financial Services Commission who are seconded to the Training Agency Limited are members of the States of Guernsey Public Servants' Pension Scheme. This is a defined benefits scheme funded by contributions from both employer and employee at rates which are determined periodically on the basis of actuarial advice, and which are calculated to spread the expected costs of benefits payable to employees over the expected service lives of those employees.

2000

Charge for the year	£ 13,124	£ 12,726
	<hr/>	<hr/>

As a result of the pension scheme being a multi-employer scheme the Directors of Training Agency Limited are unable to identify the share of the assets and liabilities of the scheme that relate to the Company. As such, in accordance with the requirements of Financial Reporting Standard No. 17 – Retirement Benefits, the pension scheme has been accounted for as if it were a defined contribution scheme.

Full details relating to the funding of the superannuation scheme are provided in the Superannuation Fund section of the accounts for the States of Guernsey. A summary of the main features is given below:

The assets of the scheme are held separately from other States assets. The fund is under the control of the States Advisory and Finance Committee, which has arranged for it to be invested by professional advisers in a wide range of stock exchange securities.

The pension costs relating to the scheme are assessed in accordance with the advice of qualified actuaries using the attained age method of valuation. The most recent actuarial valuation of the scheme was conducted at 31 December 1998. The assumptions which have the most significant effect on the results of the valuation are those relating to the rate of return on investments and the rates of increase in salaries and pensions. It was assumed that the investment return would be 7% per annum, that the general rate of salaries would increase at the rate of 5% per annum, and that pensions and deferred pensions would increase at the rate of 3% per annum. These are long term assumptions which are expected to relate to the future lifetime of the pension scheme.

The assets and liabilities of the scheme are separated between those relating to public servants (including employees of the Commission), those relating to teachers, and those relating to States Members. The valuation showed that the actuarial value of the assets relating to public servants at 31 December 1998 represented 116.2% of the actuarial value of the accrued liabilities relating to this group. The market value of the total scheme's assets amounted to £569,015,647 at 31 December 1998.

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

26th September, 2002.

Dear Sir,

I refer to the letter dated 13 September addressed to you jointly by the President of the Board of Industry and the President of the Education Council on the subject of the Training Agency – Future Funding.

Whilst the policy letter puts forward proposals for funding the Training Agency over the coming three years, these arrangements will be subject to review by the end of 2003 in a further joint report which will also set out proposed arrangements for the College of Further Education Business School. The Agency and the Business School fulfil different roles but the opportunities for improved efficiency and reduced overheads through joint working or even amalgamation need to be fully investigated once proposals for the Business School have been more fully developed.

This review will also need to look at policies for setting levels of course fees and the recovery of overhead costs which are not covered in the current policy letter.

Having brought the original proposals to the States to set up one of the forerunners of the Training Agency, the Advisory and Finance Committee remains committed to supporting initiatives to improve the skills base of the workforce, one of the Island's most valuable but limited resources. The Committee also recognises the need to increase funding for the Agency as currently structured if it is to achieve the objectives and targets set out in the Business Plan appended to the policy letter.

On the basis that future arrangements will be subject to further review by the end of 2003, the Advisory and Finance Committee recommends the States to approve the proposals.

Yours faithfully,

L C MORGAN,

President,  
States Advisory and Finance Committee.

The States are asked to decide:–

XV.–Whether, after consideration of the Joint Report dated the 13th September, 2002, of the States Education Council and the States Board of Industry, they are of opinion:–

1. To continue to assist the funding of the Training Agency for the next three years by means of an annual grant and that, from 2003, such funding shall be made from the revenue expenditure budget of the States Board of Industry.
2. That the annual grant shall be £365,000 in 2003 and that that sum shall be increased in line with the increase in States budgets generally for the subsequent two years.
3. To authorise the States Board of Industry to submit a general revenue budget for 2003 that exceeds by £350,000 the cash limit approved by the States in July 2002 and to note that the general revenue budget of the States Advisory and Finance Committee will be decreased by £200,000, the current level of States grant.
4. To direct the States Advisory and Finance Committee to take account of the annual grant to the Training Agency when recommending to the States revenue allocations for the States Board of Industry for 2004 and 2005.
5. To note that the States Education Council and the States Board of Industry will return to the States with a joint policy letter before the end of 2003, reviewing the successes, aspirations and future costs of the Training Agency and the potential for integration of the work of the Business School and the Training Agency.



## STATES BOARD OF INDUSTRY

### REGULATION OF UTILITIES (BAILIWICK OF GUERNSEY) LAW, 2001 – FUNDING A COMPETITION FOR MOBILE TELEPHONY LICENCES

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

16th September, 2002.

Dear Sir

### **REGULATION OF UTILITIES (BAILIWICK OF GUERNSEY) LAW 2001 – FUNDING A COMPETITION FOR MOBILE TELEPHONY LICENCES**

#### **1. Introduction**

The Board of Industry is seeking agreement of the States to make a short-term loan to the Director General of Utility Regulation for the purpose of funding a competition for the awarding of additional mobile telephony licences in the Bailiwick.

#### **2. Background**

- 2.1 In introducing the Regulation of Utilities (Bailiwick of Guernsey) Law 2001 and the Telecommunications (Bailiwick of Guernsey) Law 2001 the States also issued a States Direction to the Regulator in accordance with section 3(1)(b) of the Regulation (Bailiwick of Guernsey) Law, 2001, directing her to introduce competition into the telecommunications market in Guernsey as early as possible and in any case within three years. The States charged the Regulator with developing a timetable within these guidelines for the introduction of competition in telecommunications.
- 2.2 In September 2001 the Office of Utility Regulation announced the dates for introducing competition in the telecommunications market as follows:
  - 1st July 2002 – Introduction of service competition;
  - 1st December 2002 – Introduction of network competition; and
  - 1st April 2003 – Introduction of competition into the mobile market, including 2G and 3G mobile services in the Bailiwick.
- 2.3 This timetable was designed to fulfil the States' desire to liberalise the telecommunications market locally and to use the introduction of competition to ensure that there was a better choice, lower prices and improved quality of services for Bailiwick consumers.

- 2.4 Following a period of public consultation the Regulator has decided, in respect of additional mobile licences (both 2G and 3G), that it is necessary to run a competitive process to allow all interested parties a fair and equitable opportunity to apply for and be awarded licences. The Board of Industry concurs with this approach.

### **Mobile Telecommunications in Guernsey**

- 2.5 The current situation is that only one operator has a mobile telephony licence in the Bailiwick – Guernsey Telecoms Ltd (GT). GT received this licence on 1st October 2001 and it entitles the company to continue to provide the mobile telephony services that were already in place at that time. GT's licence is for 15 years (to 1st October 2016) and at present it is the only operator that will or can be licensed to provide mobile telephony services and networks in Guernsey. If further licences are granted on 1 April 2003 GT will continue to operate its mobile service but will no longer enjoy a monopoly.
- 2.6 To provide mobile services, operators need to use the **radio spectrum**. The radio spectrum is a finite resource, and there is a limit to the number of operators that can use any particular "band" of the spectrum, thus limiting the number of licences that can be issued before that band becomes full. The Regulator has consulted publicly and has worked closely with the UK Radiocommunications Agency which is responsible for the use of radio spectrum in the Bailiwick, and has concluded that there is an upper limit on the number of licences that could be issued in Guernsey.
- 2.7 In deciding what that limit is, the Regulator has looked at two different types of mobile telephony networks or services: second generation or "2G" and third generation or "3G".

### **2G Mobile Telephony (or "GSM")**

- 2.8 The mobile telephony service that GT provides and the one with which most people are familiar, is known as "2G" or "GSM". Because the same types of technical standards and systems are used on a widespread basis (e.g in the UK and the rest of Europe, as far afield as Australia, etc), Guernsey mobile phones can be used in a large number of countries. Such worldwide connectivity and capability is the basis for the success of the European style 2G mobile telecoms services and it is important that Guernsey remains part of that worldwide network. However the technology is largely limited to voice communications as data transfer over GSM is quite slow and cumbersome.
- 2.9 As described earlier, no-one other than GT can provide 2G networks and services at present. Having examined the amount of spectrum available in the Bailiwick of Guernsey, the Regulator concluded that **there is sufficient spectrum to issue at least one further licence to provide 2G networks and services, in competition with GT.**

### **3G Network and Services**

- 2.10 In addition, third generation technology (3G) has been heralded for some time now as the next evolution of mobile telephony networks and services that will, through greater bandwidth availability, allow mobile users to transmit data and images at much faster rates, all while on the move. Throughout Europe and Asia, licences for this type of technology have been sold by governments for very high amounts and the sums paid contributed to the difficulties of the telecoms sector worldwide. Furthermore, there have been delays in the introduction of the service because of:

1. technical delays in the development of standards and systems;
  2. operational delays in the production of handsets capable of using 3G technology; and
  3. delays in network build and roll out caused by financial difficulties among many telecoms companies.
  4. the products currently available have not yet caught the imagination of the market
- 2.11 Notwithstanding these delays, there is an acceptance that the technology will be introduced in due course and it is in fact already in operation in the Isle of Man, Japan and elsewhere in Asia. There is every indication that this technology will become as widely used as the current 2G technology, and once again, Guernsey cannot afford to be left behind in these developments, whenever they take place.
- 2.12 Following a full consideration of the available spectrum, the Regulator has concluded that there **is sufficient space for two 3G licences in the Bailiwick of Guernsey.**

### **3. Competition Process**

#### **3.1 Reasons for Holding a Competition**

The Regulator has decided to adopt the approach taken by many administrations in the circumstances and to hold a competition so that any interested parties (including GT) can apply on a fair and equal footing for any of the licences at the same time given:

1. the set deadline for the opening up of the mobile telephony market in Guernsey (1st April 2003);
  2. the need to have in place a fair and open process and licences so that new operators can enter the mobile market at that time (to be consistent with the Regulation Law); and
  3. the fact that there is space for one more 2G and two 3G Licensees in the Guernsey market,
- 3.2 The running of a competitive process is particularly important given that there will be more applicants than there are licences and it is important to find a fair way of choosing winning applicants based on the best outcome for Guernsey. Without a transparent competition it is likely there could be considerable dissatisfaction on the part of any unsuccessful applicant and the resulting litigation or dispute could seriously delay the introduction of new services into the market and cost a significant amount in real and opportunity costs for Guernsey.
- 3.3 Accordingly, in order to properly meet the deadline for opening up the market the Board agrees with the Regulator that it is essential to run a competition to allow for the award of 2G spectrum to any interested parties. Furthermore, the Board also accepts that although the speed of development of 3G has not been as rapid as originally anticipated, nevertheless it is efficient and sensible to run a competition for the 3G spectrum at the same time. This is particularly important because operators may wish to consider building a 3G network only instead of a 2G network in anticipation of the new technology becoming widely used over the coming years. This competition structure will allow the market to choose the most appropriate and economically sensible outcome.

- 3.4 The Board appreciates that in approaching the States for a loan to part fund a competition it is doing so when the early stages of that competition are already under way. This unusual situation is due to a combination of factors. The total cost of the project was not fully appreciated until the tenders were received from consultants by which time the early stages of the competition had been put in place (using in-house resources at the OUR). Furthermore, this is the first occasion on which the question of a loan to the OUR has arisen and it had been thought that the Board of Industry and the Advisory and Finance Committee had authority to agree a loan on behalf of the States. However, the Board has since been advised that a decision to grant a loan under the Regulation of Utilities (Bailiwick of Guernsey) 2001 can only be made by the States of Deliberation.
- 3.5 Funding the process so far as been met by funds allocated to the OUR by the Board of Industry in accordance with a previous States Resolution. The bulk of the work to be undertaken by the consultants will take place after applications have been received, assuming the States approves these proposals. Given the importance of this competition and the Board's confidence of its success, it was decided to proceed with inviting interest pending a States decision at the end of October.

### **The Competition Process**

- 3.6 The OUR has adopted a phased approach to developing the mobile market in Guernsey following on from the announcement of the firm date for opening of the market which started in December 2001 with the publication of a consultation paper. The build up to a competition has been open, clear and transparent to all interested parties. The various stages adopted allow for review milestones to ensure that the process is achieving the objective and that the interest in the process is sufficient to continue to the next phase.
- 3.7 The various stages of the process are set out below, but in summary, the competition will involve:
- The publication of an information notice and a call for tenders at the end of August 2002;
  - A detailed tender document which will be available for purchase from 1st September 2002;
  - The active marketing of the licensing opportunity during September and October;
  - The submission of bids by the end of November 2002;
  - The evaluation of bids during December 2002/January 2003;
  - The identification of successful applicants in February/March 2003;
  - The drafting of appropriate licence conditions; and
  - The award of licences on 1st April 2003.

### **Indication of interest**

- 3.8 As a result of the public consultation process, serious interest has been expressed by a number of established telecommunications operators who would appear to be capable of fulfilling the requirements of a licence. However, in the unlikely event that bids are not submitted at the end of November then the process will be suspended and the Board will report back to the States with alternative recommendations as to how competition might be introduced. (Further expenditure on the competition will cease if the process is suspended.)

#### **4. The cost of the competitive process**

4.1 A competition of this nature is a complex, technical and legal process which requires specialist resources which are not found within the Office of Utility Regulation. In this connection, although the Board has agreed that the Regulator can employ up to 7 staff, in practice there are only 3 full-time members of staff within the Office (excluding the Director General) and she has addressed the various work streams associated with regulation through a mixture of in-house expertise and outsourcing. The costs associated with running the competition therefore fall into three categories;

- Costs of specialist advisers,
- Costs from OUR legal advisers, and
- In house costs of OUR (existing staff and overheads)

#### **Specialist Advisers**

4.2 Against this background a competitive tendering process for consultants was held.

4.3 Five companies submitted tenders and following initial evaluation, three were shortlisted and interviewed and on the basis of the interviews and a detailed scoring of the applications, including a value for money examination, OUR chose to appoint Andersen Management International AS (AMI) as advisers on the process as the most appropriate firm offering the best value for money.

4.4 AMI are an internationally renowned firm who specialise in advising regulators and running competitive selection processes and auctions for telecommunications licences. The company has provided or is currently providing assistance in relation to more than 30 such licensing arrangements including those in Sweden and were by far the most experienced firm to bid for the work and on the basis of the OUR's objective scoring methodology were a clear best choice.

4.5 The function of AMI in the process includes:

- Advising on the design of the competition
- Preparing the tender documentation and request for tender
- Marketing the licences
- Managing the secure receipt and register of bids
- Managing the preparation of and communication of answers to bidders questions
- Evaluation of the bids and preparation of an evaluation report
- Recommendation as to best applications
- Assistance in preparation of final licences for successful applicants

4.6 The total costs of the advisers is capped at £230,000 for the entire project (including expenses).

#### **Legal Advisers**

4.7 On its establishment, OUR engaged legal advisers with experience in telecommunications law. This was done following an open tendering process in 2001. The legal team is also experienced in the legal aspects of running this type of competition and it is most cost-effective for OUR to use its existing legal advisers for the legal aspects of this competition rather than engage further advisers.

### **In-House Resources**

- 4.8 The major policy decisions, a significant amount of the competition management and all significant decisions must be made by OUR and its staff, including the Director General. Therefore the process will use a considerable amount of in-house resources of OUR and these will be costed for inclusion in the overall cost of the project.

### **Total Cost**

- 4.9 The total cost of running the competition has been estimated at £500,000 and this is due to be recovered from licence fees as described below. This total cost has been published for interested parties to see and comment upon in the OUR consultation papers.
- 4.10 The Board would wish to put the cost of the competition (and therefore the licences) in context. Even if only one applicant received a licence and met the full £500,000 this would still represent a modest outlay in relation to the potential returns from operating the service. Conversely, given the millions (in some cases billions) of pounds paid elsewhere it may be suggested that the fees be increased as a source of revenue for the Island. However, it must be borne in mind that:
1. maximising profit is neither the aim nor a realistic objective in the current market;
  2. the prime objective is to add value through additional, competitive telecommunications services; and
  3. in any event if the OUR sought to raise funds in excess of running costs it would be acting ultra vires.

## **5. Funding the competitive process**

### **5.1 Licence Fee**

The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 and the Telecommunications (Bailiwick of Guernsey) Law, 2001 together provide that the Director General may charge licence fees and they also provide that the costs of the office shall be met from such fees.

- 5.2 Therefore the OUR proposes to charge application fees for the available mobile telephony licences that meet the entire costs of this application process. This has already been publicised in the documentation on the competition.
- 5.3 In line with international practice, this fee will be charged **only to the successful applicants in the competition process**, i.e. if a party applies for a licence or licences and is unsuccessful then that party will not bear the cost of the application process. This is considered equitable as it is the successful licensees who will benefit from the award of the licences.
- 5.4 As a result it will only be possible to collect the full licence fee from the successful applicant on licence award, i.e. on 1st April 2003. Given the uncertainty as to the number of applicants and/or the final outcome of the competition, it is not possible to collect the full amount from each applicant up front or to calculate what the correct amount would be. Notwithstanding this, the OUR has included a deposit fee for each entrant into the competition that will help defray the ongoing cost of the process, with the remainder to be collected on 1st April 2003.

- 5.5 Separately from the charging of an application fee, licensees will be liable to pay an annual fee to fund the cost of ongoing regulation of the market. (In this respect licences are likely to be issued for a period of 15 years for 2G and 20 years for 3G). The Annual Fee will be set by the Regulator with reference to the expected level of costs from year to year, but is entirely separate from the initial licence application fee.

## 5.6 Funding of OUR

The activities of the Office of Utility Regulation are funded in three ways:

1. Principally, by licence fees from the established licensed holders in telecommunications, post and electricity;
2. Exceptionally, in the first two years of regulation, specific work on strategic issues which could not reasonably be funded from the fees paid by licence holders has been met from a fund allocated to the Board of Industry by the States for this purpose.
3. Grants and loans agreed by the States from time to time for specific purposes.

When the regulatory law was drafted it was envisaged that there would be occasions when it would be improper for the Regulator to use monies raised from existing licence holders to fund exercises of this nature designed to introduce competition to those very licence holders. Hence, the law provides in section 10 as follows:

- (i) *The States may, on the recommendation of the Board of Industry made after consultation with the Director General, and on such terms and conditions (whether as to repayment, payment of interest or otherwise) as they think fit, make grants or loans from the States General Revenue Account towards the costs and expenditure of the Director General incurred in exercising his functions and powers.*
- (ii) *The States shall, before making any grant or loan under subsection (i), satisfy themselves that the costs and expenditure or estimated costs and expenditure of the Office of the Director General in any year is likely to exceed, or has exceeded, the income or estimated income of that Office in that year.*

- 5.7 The Board is in agreement with the Director General that it is entirely appropriate that the competitive process on mobile licensing should be met at least partly from a loan by the States pending the payment in full of the application fees that will cover the entire cost of the process.

**5.8 Following discussions with the Advisory and Finance Committee, it is proposed that a loan of £300,000, bearing interest at the States Treasurer's rate, be advanced for the period 1 November 2002 to 30th April 2003 to be repaid in full by 30th April 2003.**

- 5.9 In respect of section 10(ii) of the law, having consulted with the Director General it is clear to the Board of Industry that as a result of running this competition the cost of operating the Office of Utility Regulation will indeed exceed the estimated income of the Office for 2002. As the competition process runs into 2003, and the application fee will be collected in 2003, the total costs of the office in 2003 will not exceed the total income in that year, however the grant of the loan is appropriate to allow the office to handle the timing of the collection of the licence fees.



- 5.10 As has already been stated, both the Director General and the Board are confident that, from the interest shown so far, one or more licences will be issued at the end of the process and the Director General will be in a position to repay the loan in full in April 2003. Nevertheless, it is acknowledged that, it is possible, if unlikely, that because of unforeseen circumstances, a licence might not be issued and therefore there would be no fees to cover the repayment of the loan.

**5.11 In these circumstances a number of options present themselves, including deferring repayments until such time as the income to the Office of Utility Regulation was such that those payments could be made. Alternatively, it may be necessary for the States to write off the cost of the exercise or some part of it.**

## **6. Recommendations**

The Board of Industry recommends the States to:

1. Agree to advance a short-term loan to the Director General of Utility Regulation for the purposes of funding a competition for mobile telephony licences, as detailed in this report;
2. Approve the terms and conditions for the granting and repayment of the loan to the Director General, as set out in section 5 of this report; and
3. Note that in the extreme event of one or more licences not being granted, the cost of holding the competition for mobile telephony licences will be met in full by the States.

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

Yours faithfully,

JOHN ROPER,

President,

States Board of Industry.



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

The States are asked to decide:–

XVI.–Whether, after consideration of the Report dated the 16th September, 2002, of the States Board of Industry, they are of opinion:–

1. To advance a short-term loan to the Director General of Utility Regulation for the purposes of funding a competition for mobile telephony licences, as detailed in that Report.
2. To approve the terms and conditions for the granting and repayment of that loan to the Director General, as set out in section 5 of that Report.
3. To note that in the extreme event of one or more licences not being granted, the cost of holding the competition for mobile telephony licences will be met in full by the States.

**STATES BOARD OF INDUSTRY**

**THE REGULATION OF UTILITIES (BAILIWICK OF GUERNSEY) LAW 2001 –  
APPOINTMENT OF APPEALS PANEL**

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

18th September, 2002.

Dear Sir,

**THE REGULATION OF UTILITIES (BAILIWICK OF GUERNSEY) LAW 2001 –  
APPOINTMENT OF APPEALS PANEL**

1. The Board of Industry is seeking States approval of a list of persons which it believes are suitably qualified and experienced to serve on a Utility Appeals Panel from which members of future Utility Appeals Tribunals will be drawn. The Board is also seeking endorsement of its proposed nomination for the Chairman and Deputy Chairman of that Panel.

2. Background

Part V of the Regulation of Utilities (Bailiwick of Guernsey) Law 2001 addresses the matter of appeals against decisions of the Director General of Utility Regulation. This part of the Law provides, inter alia, for the appointment of a Utility Appeals Panel and enables the States to make, by Ordinance, “such provision as they may think fit in relation to the appointment, constitution, proceedings and powers of the Utility Tribunal”.

3. The Regulation of Utilities (Utility Appeals Tribunal) Ordinance 2001 was approved by the States in September of that year. The only outstanding item in relation to appeals is the appointment of an Appeals Panel and its Chairman and Deputy Chairman.
4. The Board, after consultation with the Policy and Finance Committee of the States of Alderney and the General Purposes and Advisory Committee of the Chief Pleas of Sark, has drawn up a list of persons whom it believes fulfil the requirements of the Law, in that they are:
  - persons who have experience and knowledge relevant to utility activities and the regulation thereof and who are independent of any licensee (Section 14(3)); and
  - not members of the States of Deliberation or the States of Election or the States of Alderney or the Chief Pleas of Sark (Section 14(4)).

The proposed list is appended to this letter.

Chairman and Deputy Chairman

5. The Ordinance provides that the States shall, when drawing up the Appeals Panel, designate one of its members as Chairman and another as Deputy Chairman.
6. The Board puts forward the name of Professor Michael John Waterson as Chairman.

Professor Waterson has for a number of years lectured in economics and as Chair of the University of Warwick, Economics Department, held responsibility for managing the work of more than 40 academics and controlling the budget required to run the department. Through his involvement with numerous appointment panels and research groups he has acquired considerable experience in chairing meetings and analysing data. In addition, Professor Waterson has contributed to, published and delivered an impressive catalogue of articles and academic journals, including his current research into the development of competition in domestic energy supply.

7. The Board further proposes the name of Professor Martin Cave as Deputy Chairman.

Professor Cave has extensive experience in the areas of advisory, consultancy, research, and strategy particularly within the utilities industry. Professor Cave has also reviewed and edited a number of books and written chapters and papers in professional journals on subjects as wide ranging as Law, Economics, Regulation and Telecommunication Policy.

8. The role of the Chairman of the Panel is to appoint three members of the Tribunal from the Panel and nominate one of those members to chair the Tribunal. The Ordinance provides that the Chairman of the Panel may nominate either himself as Chairman of a Tribunal in certain circumstances or nominate his deputy.

9. Tribunal Service

In making this approach to the States the Board acknowledges that in time responsibility for establishing and administering the Utility Appeals Panel may well be transferred to the centralised Tribunals Service agreed in principle by the States.

10. Recommendations

The States is requested to:

1. Approve the membership of the Utility Appeals Panel, as set out in the appendix to this letter;
2. Designate Professor Michael John Waterson as Chairman of the Utility Appeals Panel; and
3. Designate Professor Martin Cave as Deputy Chairman of the Utility Appeals Panel.

I would be grateful if you would lay this matter before the States, together with appropriate propositions.

Yours faithfully,

JOHN ROPER,

President,

States Board of Industry.

## APPENDIX

### **Brief Resume of Panel members' details**

#### **Professor Jens C. Arnbak**

Graduated in engineering studies in 1968 and Ph.D. studies in 1970. He then worked for eight years as an international civil servant in The Hague in support of satellite and other digital networks for joint political decision-making by NATO countries.

Appointed professor of wireless communications at Eindhoven University of Technology in 1979. He holds the chair of tele-information techniques at Delft University of Technology, where he also held a part-time chair in the department of Systems Engineering and Policy Analysis from 1994 until 1997, when he was appointed chairman of OPTA, the independent Dutch NRA.

Professor Arnbak has served Dutch Governments in policy advisory committees since 1982, *inter alia* on the privatisation of the PTT (1984), the review of the Penal Code to cater for misuse of ICT (1986), and review of the Dutch Constitution in the light of ICT (1999 – 2000). He was a board member of the Netherlands Engineering Academy and listed in *Who's Who in Engineering*.

#### **Hans C. Bakker**

Graduated in administrative science at the University of Leiden in 1982. During his studies he worked part-time as an assistant to MP's. From 1982 to 1985 he held various senior positions within the Dutch government.

Since October 1994 he has been responsible for organising, within the Telecommunications and Post Department of the ministry, a separate Directorate for regulation of telecommunication and post and to head it as its director. In this capacity he prepared the establishment, on August 1st, 1997, of the Independent Post and Telecommunications Authority (OPTA). OPTA is headed by a Commission of three independent experts. Mr Bakker is director of OPTA's staff and also secretary to the Commission. Mr Bakker has served on government advisory committees regarding government and civil service reform and the organisation and functioning of regulation.

#### **Professor Robert Baldwin**

Graduated in Law and Philosophy in 1973 and in 1976 completed his Ph.D. in Law. In 1978 Mr Baldwin qualified as a solicitor (Scottish Law Society).

From 1976 to the present day Professor Baldwin has held various University positions culminating in his appointment, in 1996, as Professor of Law, London School of Economics and Political Science.

Mr Baldwin has extensive experience of chairing committees and currently holds the following chairmanships:–

Chair of Examinations Committee Law and Management External LL.B

Law Liaison, Law and Management External LL.B

Chair of Admissions Committee, LSE

Director of LSE Short Course on Regulation

As an academic Mr Baldwin has produced many papers and written books on a range of subjects including Regulation. He has been commissioned to write reports on various topics for the European Commission; International Labour Organisation, HM Treasury, Health and Safety Executive, Lord Chancellor's Department, Economic and Social Research Council and the National Audit Office.

### **Professor Martin Cave**

Graduated in Philosophy, Politics and Economics in 1969 and B.Phil. in Economics in 1971. Since 1971 Professor Cave has held a variety of positions within the academic world leading up to his current position as Professor and Director, Centre for Management under Regulation, Warwick Business School, University of Warwick.

Much of his work has been centred on writing papers or books on regulation with particular emphasis on the telecommunications industry. He also has extensive experience in acting as advisor and consultant to various government organisations including OFWAT, Postal Services Commission, Civil Aviation Committee, OFTEL, OFGAS, Office of Fair Trading, OEDC, Competition Commission, Office of Utility Regulation (Jamaica). In March 2001 he was appointed by the Chancellor of the Exchequer and the Secretary of State for Trade and Industry to prepare an independent report on Spectrum Management. On conclusion of this in March 2002 Professor Cave was appointed as a Non-Executive Advisory Director of OFWAT.

### **Heather Clayton**

Graduated with a B.Eng. in Electrical and Electronic Engineering and a Ph.D. in Digital Communications. Since graduating in 1996 she has been mainly employed in work that is directly related to the telecommunications market. Since June 1999 she has been employed by Oftel both as a Senior Project Manager and Policy Advisor and, since May 2002, has been employed as Director of Investigations for Oftel. In this post she is responsible for managing the resourcing, progress-chasing and senior quality control of the full range of complaints and dispute resolution investigations including:–

Competition Act investigations

Disputes under the current European Directives

Disputes over unfair consumer contract terms

Enforcement of national telecommunications licence conditions.

### **David Edmonds**

Graduated with a B.A. in Political Institutions and History. Has been employed in various civil service posts at the Department of Environment including: -

Private Secretary to Sir Ian Bancroft, later Lord Bancroft, Permanent Secretary, Department of Environment.

Between 1979 and 1983 he was Principal Private Secretary to the Secretary of State for the Environment (Michael Heseltine).

Under Secretary, Inner Cities Directorate responsible for policy and management of Government's Inner Cities Programme, with an annual budget of £450 million.

Since March 1998 he has been the Director General of Telecommunications at Oftel. As Director General he has introduced many changes to the organisation to ensure that regulation is appropriate to the level of competition in the market place. He was responsible for the introduction of the 'competition plus' strategy which was announced in May 1999. 'Competition Plus' means a primary focus of promoting competition, plus a wider role which includes encouraging better information for consumers, managing access to key scarce resources and tackling areas where the market fails to deliver and consumers need additional protection.

Over the last four years he has reorganised Oftel which currently employs around 230 staff, into a horizontal, project-based organisation that has enabled telecoms regulation to adapt to the massive changes of the past four years.

### **Marc Furrer**

Graduated in Law from the University of Berne in Switzerland in 1976 and after practicing Law became Swiss Affairs Correspondent for Radio DRS (Swiss German Radio), subsequently became Chief Editor of consumer programmes, Parliamentary Correspondent and between 1988 and 1992 Personal Political Secretary to the Head of the Federal Department of Transports, Communication and Energy. In 1992 with the founding of the Swiss Federal Office for Communications (OFCOM), Mr Furrer became its Director General. With a team of 293 employees he is the regulator responsible for drafting and implementation of legislation in the telecommunications sector as well as for radio and television. He is also responsible for the management of frequency spectrum and for supervising the performance of licensees.

### **Jim Niblett**

After graduating in mathematics in Cambridge in 1975, Mr Niblett joined the Civil Service as an Operational Research Analyst in the Civil Service Department, the Civil Aviation Authority and the DTI.

Between 1990 and 1992 he was responsible for negotiations on the European Directive on high definition television and between 1992 and 1996 he was responsible at Prudential for supervision of some 50 life assurance companies and development of a regulatory policy in several areas responsible for financial derivatives by insurance companies in their asset management. He took up his current post in 1996 as Director, Broadband and International Affairs at OFTEL. His responsibilities include managing OFTEL input into UK Government and European Commission thinking and review of telecoms regulatory policy, international liaison coordination of the EU communications regulator's group and overall responsibility for regulation of broadband markets both in terms of regulatory policy and compliance.

### **Professor Jim Norton**

Graduated in Electronics Engineering in 1974. Over a number of years he has acquired significant experience from working in both public and private sector. His career has been firmly anchored in telecommunications, radiocommunications and information technology sectors. He is currently a Non-Executive Director of four quoted companies and has a proven track record in the innovative development of new products and services. Professor Norton has extensive success in the 'management of change' and in influencing decisions at the highest levels in both Government and the private sector.

He is currently chairman of Deutsche Telekom Ltd and Country Head for Deutsche Telecom AG in the UK. He is also a board member of key UK operating companies such as T-Mobile UK- formerly One-2-One. He is a member of the Advisory Committee of the Foundation for Information Policy research and is a member of the Advisory Board for the Parliamentary Office of Science and Technology.

### **Adam Scott**

Graduated in Engineering Science and Economics in 1968 with a B.A. in Jurisprudence in 1970 with a M.A. in 1972. Became a barrister in 1972 and in 1979 achieved a M.Sc. Administrative Sciences. As a barrister he has been employed in a variety of situations mainly focusing on Intellectual Property Patents and Trademarks. However, since 1974, his work brought him into the telecommunications field where he continued to advise on a range of issues, including regulatory strategy. Since 1994 he has held various fellowships at the University of St Andrews where he became a senior research fellow including teaching and research in pharmaceutical and utility regulatory processes. He then became a senior advisor, first with NERA, then from 1999, with Europe Economics working principally with the Office of Telecommunications Regulator and with the European Commission. In 2000 he became a founding member of the UK Competition Commission Appeal Tribunals.

**Martin Stanley**

Joined the civil service in 1971, having studied Chemistry and Economics at Oxford University, first working in the Inland Revenue before moving to the Department of Trade and Industry where he held a number of senior positions. In particular, from 1990 to 1992, he was DTI's Principal Private Secretary. Between 1992 and 1998 he led a number of teams responsible for the Government's relations with, and support for, the vehicle, steel, engineering, offshore oil/gas and international projects industries.

He transferred to the Cabinet Office as Director of the Regulatory Impact Unit where he was responsible for assisting Government Ministers and Departments to find the right balance between under-regulating (and so failing to protect the public) and over-regulating (and so failing to preserve freedoms, or creating excessive bureaucracy).

He was appointed Chief Executive of the Postal Services Commission in January 2000. Prior to his joining Atmaana in 1999, he held Non-Executive appointments with American Express and IBM.

**Professor Michael Waterson**

Graduated with a B.A. in Economics in 1971 a M.Sc. in 1972. He later completed a Ph.D. in economics in 1978.

Between 1974 and 1988 he was employed in a number of posts within the academic world. Since 1991 he has held the post of Professor of Economics at Warwick University. This mainly includes teaching, prosecution of research and administration. Current research activity in Industrial Economics includes work on development of competition in domestic energy supply, entry into the fast food industry, and work on modelling vertical linkages. In his post in administration within the University he was a member of the University's Promotion Committee, Research Committee, Graduate Board, Senate, Chairing interview panels vice Pro-Vice Chancellor and numerous other committees.

He has held the position of Associate for the University of Warwick Centre for Management Under Regulation since 1996 having involvement in the Centre from its inception, including the appointment of both Directors to date (Professor Catherine Waddams and Professor Martin Cave), chairing the Advisory Board on occasion, teaching on the Managing Regulatory Industries course to post-experience executives and running the Leverhulme funded project in the Centre.

He has also been a member or associate member of the OFGEM, OXERA and the Centre for Competition and Regulation. He has also undertaken consultancy activities for Competitions Commission, Office of Fair Trading, NERA etc.

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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 18th September, 2002, of the States Board of Industry, they are of opinion:–

1. To approve the membership of the Utility Appeals panel as set out in the Appendix to that Report.
2. To designate Professor Michael John Waterson as Chairman of the Utility Appeals Panel.
3. To designate Professor Martin Cave as Deputy Chairman of the Utility Appeals Panel.



## ISLAND DEVELOPMENT COMMITTEE

### PROGRAMME FOR THE REVIEW OF THE DETAILED DEVELOPMENT PLANS – JOINT REVIEW OF RURAL AREA PLAN PHASES 1 AND 2

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

11th September, 2002.

Dear Sir

### **PROGRAMME FOR THE REVIEW OF THE DETAILED DEVELOPMENT PLANS - JOINT REVIEW OF RURAL AREA PLAN PHASES 1 AND 2**

#### **1. Background**

In the mid-1990's, the States adopted a new generation of Development Plans providing an Island-wide framework for applying strategic land use policy. The Rural Area Plan - Phase 1 (RAP 1) was approved in 1994, the Urban Area Plan (UAP) in 1995 and the Rural Area Plan - Phase 2 (RAP 2) in 1997.

Under the current Island Development Law, Development Plans must be reviewed after a maximum of 5 years unless their validity is extended by the States. In 1999 (Billet d'État XXI, 1999), the Island Development Committee explained that the combination of the short interval between the need to renew RAP 1 and the UAP, the workload involved in progressing the development of the mixed use redevelopment areas and other major projects, and the priority being given to the preparation of the new Planning Law, meant that its resources were very thinly stretched.

Given that strategic policy directs the Island Development Committee to accommodate the majority of the Island's development needs in the Urban Area, the Committee explained that there was a strong case to review the UAP first.

To offset the disadvantage of delay in reviewing RAP 1, however, the Committee proposed to undertake the joint review of both phases of the RAP.

It was stated at the time that:

"A joint review of Rural Area Plans [Phase1] and [Phase 2] whilst a demanding task, is feasible provided it is assumed that:

- There is no fundamental shift in strategic policy to conserve and enhance the rural areas of the Island and to direct the majority of development to the urban area.
- The thorough landscape study undertaken in preparing the current plans remains sound and no comprehensive resurvey is required [although selective reappraisal may be required in revising policy]."

The States agreed with the Committee's approach and accepted its undertaking to present a more detailed review timetable in due course. Further policy letters describing progress on the Plan reviews were subsequently submitted to the States in 2000 and 2001 (Billets d'État XX, 2000 and XXII, 2001). On each occasion the life of the RAP 1 and UAP was extended by one year.



## **2. The Current Position**

As estimated in the Committee's November 2001 policy letter, the revised Urban Area Plan was presented to the States this summer (late July States Meeting). The new Plan was adopted and is now in force.

In November 2001, the Committee, having published the draft UAP two months previously, had hoped to be able to divert senior staff to work on the combined review of RAP 1 and 2. At the same November States Meeting, however, consideration of the Committee's policy letter on the review of the Law was subject to a vote of sursis to enable a further major consultation exercise to be carried out.

A second policy letter on the Law was favourably received at the June 2002 States Meeting but, inevitably, the substantial workload imposed by the consultation process had to be prioritised over work being done on the RAP review in order to meet the States' timetable.

Notwithstanding this additional difficulty, the Committee has continued to make progress with its preparatory work for the RAP review. The adoption by the States of the Urban Area Plan and the Strategic and Corporate Plan 2002 (Strategic Land Use Plan), provides an up-to-date policy background for the joint review of the Rural Area Plans, which is now the focus of the Committee's attention. Work is well advanced on the survey stage of the review. This includes setting aside time for a wide ranging public consultation exercise on the issues to be addressed. The IDC intends that public involvement in defining the issues at this early stage will provide reassurance that all relevant matters are being taken into account.

Assuming no additional unforeseen demands on staff time, the Committee intends to publish the draft joint review of the Rural Area Plan in the Spring of 2003. Thereafter, the Planning Inquiry process will commence. The Planning Inquiry timescale for the Rural Area Plan cannot easily be predicted - Rural Area Plan Phase 1 took three years and Rural Area Plan Phase 2, eighteen months. It is the Committee's objective, however, to improve on this period, insofar as it can influence the overall timescale. Experience of the Urban Area Plan Review would give some optimism that a shorter timescale can be achieved for the Rural Area Plan review than has been the case in the past.

## **3. The Scope of the Review**

In 1999, the Committee explained that the joint review of both phases of the RAP would be a manageable task if the strategic policy to constrain development in the rural areas of the Island remained unchanged and if no comprehensive resurvey work was required.

Through the 2002 Strategic Land Use Plan the States have confirmed that the 'Urban - Rural split' and the new UAP provide a comprehensive framework to enable the majority of development to take place in the urban area of the Island. Importantly, this includes the majority of housing development to meet the strategic target of making provision for 300 new homes each year. Accordingly, the overall approach to the new RAP will continue to be one of conservation and enhancement where development will only be accommodated where this is compatible with the protection of the rural environment.

The process of public consultation will be extremely helpful to the Committee in assessing the balance to be struck in complying with strategic policies whilst meeting rural development needs.

## **4. Renewal of the existing Rural Area Plans**

The validity of the current Rural Area Plans expires on 31st December 2002. Whilst the Committee has tried to provide a realistic timescale for the review process it is clear that this cannot be achieved before the current Plans expire, in spite of the good progress that is now

being made. Accordingly, the Committee proposes that the validity of the Rural Area Plan Phase 1 and the Rural Area Plan Phase 2 should be extended until 31st December 2003. Although this is unlikely to cover the Inquiry period, the extension to that date will ensure that the Committee continues to update the States on progress at regular intervals.

## **5. Recommendation**

The Committee recommends the States:

- (1) To agree the Rural Area Plan (Phase 1) and the Rural Area Plan (Phase 2) shall continue to have effect until 31st December 2003.
- (2) To note that in accordance with the Strategic and Corporate Plan (Strategic Land Use Plan) 2002, the majority of the Island's development needs have been provided for in the Urban Area Plan 2002. The prevailing theme underlying the review of the RAP will therefore be one of conservation and enhancement of the rural environment.

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

Yours faithfully,

JOHN E LANGLOIS,

President,  
Island Development Committee.

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

19th September, 2002.

Dear Sir,

**PROGRAMME FOR THE JOINT REVIEW OF RURAL AREA PLANS PHASES 1 & 2**

I refer to the policy letter dated 11th September 2002 from the President of the Island Development Committee (IDC) on the above subject.

The Advisory and Finance Committee welcomes the confirmation from the IDC that it is aiming to publish the combined review of both phases of the Rural Area Plan (RAP) next Spring. Although the timetable for the subsequent public Planning Inquiry and the ensuing Inspector's Report cannot be predicted with certainty, the expeditious handling of the recent Urban Area Plan review gives grounds to estimate that a new, up to date RAP may be in place early in 2004.

The Committee appreciates that in the case of RAP Phase 1, this nonetheless represents a ten year rather than a five year interval between reviews and that many people in the north west of the Island will feel that a reappraisal of land use planning in their area is long overdue. This is an understandable cause of frustration and it is essential that all concerned have the opportunity to present their case to the independent Planning Inspector in due course when the IDC's draft plan has been published. It is to be hoped that in future, the reduction to two Development Plans only (the Urban and Rural Area Plans) and the flexibility offered by the new policy-based approach will make the task of review less time-consuming and complex than has been the case in the past.

As the States Committee responsible for the preparation of the Strategic Land Use Plan (Strategic & Corporate Plan), the Advisory and Finance Committee agrees with the IDC that it is important for States Members and the wider public to understand that the new RAP will be prepared within the parameters set by the strategic policy and not on a 'stand alone' basis. In this respect, the Committee considers that Members should note the IDC's reminder that the approach to development in the Rural Area will continue to be one of relative constraint in the interests of conserving and enhancing the rural environment as required by the Strategic Land Use Plan 2002.

In conclusion, the Committee recommends the States to approve the IDC's proposals as set out in the policy letter.

Yours faithfully,

R C BERRY,

Member,  
States Advisory and Finance Committee.

The States are asked to decide:—

XVIII.—Whether, after consideration of the Report dated the 11th September, 2002, of the Island Development Committee, they are of opinion:—

1. That the Rural Area Plan (Phase 1) and the Rural Area Plan (Phase 2) shall continue to have effect until the 31st December, 2003.
2. To note that in accordance with the Strategic and Corporate Plan (Strategic Land Use Plan) 2002, the majority of the Island's development needs have been provided for in the Urban Area Plan 2002 and the prevailing theme underlying the review of the Rural Area Plan will therefore be one of conservation and enhancement of the rural environment.

## **STATES WATER BOARD**

### **REVISION OF THE WATER BYE-LAWS**

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

29th August, 2002.

Dear Sir,

### **REVISION OF THE WATER BYE-LAWS**

#### **Introduction**

The current Water Bye-laws, which were drafted over half a century ago, no longer provide an adequate means of controlling certain practices within the water industry and require updating urgently. The purpose of this letter, therefore, is to seek approval from the States to prepare a new Ordinance which reflects the latest industry standards and provides the level of consumer protection required at the beginning of the 21st Century.

In 1948, the States approved the Provisional Ordinance sanctioning the Bye-laws made by the States Water Board for the prevention of Waste, Undue Consumption, Misuse or Contamination of Water. This Ordinance was sanctioned under Section 30 of “the Loi ayant rapport à la Fourniture d’Eau par les États de cette Île aux Habitants de la dite Île, 1927” (The Water Supply Law 1927).

The 1948 Water Bye-law Ordinance has remained largely unaltered since it was enacted.

Technology, material science and our understanding of those aspects affecting drinking water quality have increased, for example, it has long been appreciated that lead in the environment is harmful. As a result, lead has largely been eradicated from paints, petrol and other household materials and legislation invoked to force manufacturers to find suitable alternatives.

The UK Water Industry has banned lead from use in newly installed pipework and fittings since 1976. The Guernsey Water Bye-laws have not been updated and while industry practices have largely mirrored those in the UK, nevertheless it is still “legal” for plumbers to install lead pipes and leaded solder joints today.

Plumbers have been advised by the Board to stop using leaded solder, however there is no legislation to enable the Board to enforce this requirement.

The College of Further Education already trains plumbers to the UK standards using the latest UK Water Regulations consistent with those being proposed.

Against this background it is vital that the Water Bye-laws are amended without delay.

### **Background to the Recommendations**

As well as the example of lead described above, several other changes have taken place in the UK and European water industries.

Worldwide, water is now regarded as a precious resource and strenuous efforts have been made to conserve water and ensure its efficient use. Water closets (WCs) have been redesigned so as to use less water, washing machines and dishwashers have had to make more efficient use of both energy and water.

All of these key facets, together with certain harmonising standards in Europe, have now been enshrined within the UK's "Water Supply (Water Fittings) Regulations 1999."

As Guernsey has to import all of its sanitary ware, some of the elements of this UK legislation have to be accepted. It is a fact that it is no longer possible to buy a standard WC cistern that will conform to our current Water Bye-laws.

The UK Water Regulations have also revised the requirements necessary to protect the "public water supply" from contamination caused by back-syphonage. Back-syphonage was drawn to the attention of the public in April 1993 when at Pointes Lane, St Andrew's the mains water became contaminated by a pesticide from an adjacent vinery site.

Back-syphonage can occur when for one reason or another, usually a burst pipe, the pressure inside the watermain falls thus 'sucking' liquid back into the public water supply pipe. The severity of the contamination is dependant upon the deleterious nature of the material drawn back into the watermain. In the case of vineries the various pesticides and herbicides are a cause of great concern. Similar situations could arise where the liquid from a pond, pool or tank could be drawn into the public water supply.

The proposed new regulations will enable the risk of contamination to be matched by appropriate precautionary measures. New technologies incorporating reduced pressure zone valves can, in some circumstances, provide more appropriate protection. As with many of the new devices, correct maintenance regimes have to be adopted and maintained. The Water Board's role, therefore, is to work with the local plumbing industry to advise and monitor the installation and maintenance of their installations. Failure to exercise this important duty of care would render the Island's population at serious risk of water contamination.

### **Resources**

Increased use of IT systems will largely offset the need to employ extra people in the plumbing inspectorate team and the Water Board is committed to delivering these.

Local plumbers, plumbing retail outlets, developers, architects, training organisations and trade associations will all be consulted during the introductory stage of this project, but it is not envisaged that there will be any resistance to the introduction of these new requirements. In fact, a number of the skilled tradesmen are actively encouraging the Water Board to adopt the "new" standards.

### **Proposals**

Against the background set out above, the Board proposes that the Law Officers arrange for the drafting of a revised Ordinance, setting out Bye-laws that address the following issues:

Restrictions on installation – Water fittings etc. e.g. Kite or EC marked products.

Requirements for water fittings etc – Appropriate quality standards.

Notification – Advising the Water Board of proposed plumbing works.

Plumbing contractors certification – Suitably qualified and SWB approved plumbers will enjoy special status thus enabling them to ‘self certificate’ their installation work.

Contravention of regulations and defences – The circumstances and level of fines for contravention of the Water Bye-laws. If found guilty of an offence a person will be liable on summary conviction to a fine, not exceeding level 3 (£1,000), on the standard scale.

Inspections, measurements and tests – This will include the powers vested in Water Board staff to gain entry onto land and premises for the purposes of enforcing this Ordinance.

Enforcement – A duty will be placed on the Water Board to enforce the requirements of this Ordinance.

Relaxation of requirements – The Water Board will be permitted to relax certain requirements in relation to a particular case. e.g. The introduction of an innovative fitting, or piece of equipment, which is considered to be acceptable but which has yet to receive formal acceptance.

Dispute resolution – Any aggrieved party will be able to challenge the decision of the Water Board. It is envisaged that the new Tribunals service, as described in clauses 2.3.20 to 2.3.26 of the 2002 Policy and Resource Planning Report, Billet d’État XV of 10 July 2002, will resolve any disputes which may arise.

The Ordinance will also include schedules which deal with the following matters:–

**Fluid categories** – These will define the level of risk attached to certain types of liquid.

Fluid category 1 – Wholesome water supplied by the Water Board

Fluid category 2 – Category 1 water impaired by a deterioration of its aesthetic quality.

Fluid category 3 – A fluid which represents a slight health hazard.

Fluid category 4 – A fluid which represents a significant health hazard.

Fluid category 5 – A fluid which represents a serious health hazard.

### **Requirement for Water Fittings**

The use of materials or substances which could impair the quality of the water will be prohibited.

Requirement for water fittings – The quality, integrity and accessibility of fittings will be defined.

Water systems design and installation – General notes to advise on the design and installation of water system so as to conform to the essence of the bye-laws.

Prevention of cross connection to unwholesome water – The steps necessary to avoid contamination of the wholesome supply with fluid from another source will be defined.

Backflow prevention – The actions and apparatus necessary to prevent water being drawn into the Water Board’s supply pipework in the event of a pressure reduction e.g. a burst watermain, will be defined.

Cold water services – The requirement for cisterns on cold water systems will be prescribed.

Hot water services – The requirements for apparatus on hot water systems will be prescribed.

WC's, flushing devices and urinals – The size and types of flushing configuration necessary to ensure water efficiency whilst maintaining good personal hygiene will be defined.

Baths, sinks, showers and taps – There will be a requirement for there to be a drinking water tap on each premises. There will also be a requirement for baths, sinks etc to have outlet control devices.

Washing machines, dishwashers and other appliances – maximum volumes of water usage will be specified.

Water for outside use – waste prevention measures will be prescribed.

### **Recommendation**

The Water Board recommends the States to agree that the Provisional Ordinance sanctioning the Bye-laws made by the States Water Board for the prevention of Waste, Undue Consumption, Misuse or Contamination of Water, 1948, should be repealed and a new Ordinance, along the lines set out in this report, drafted.

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,

M.E.W. BURBRIDGE,

President,  
States Water Board.

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

The States are asked to decide:–

XIX.–Whether, after consideration of the Report dated the 29th August, 2002, of the States Water Board, they are of opinion:–

1. That the provisional Ordinance sanctioning the Bye-laws made by the States Water Board for the prevention of Waste, Undue Consumption, Misuse or Contamination of Water, 1948, shall be repealed and a new Ordinance along the lines set out in that Report enacted.
2. To direct the preparation of such legislation as maybe necessary to give effect to their above decision.



**STATES WATER BOARD**

**PROPOSED SALE OF BUNGALOW KNOWN AS “GREENHILL” SITUATED AT RUETTE  
DE LA TOUR, CASTEL**

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

20th September, 2002.

Dear Sir,

**Proposed Sale Of Bungalow known as “Greenhill” situated at Ruelle de la Tour, Castel**

**Introduction**

Following a review of its property assets in 1995, the States Water Board resolved to sell certain properties that are surplus to the Board’s operational requirements, when vacated by long standing tenants.

The Board’s property assets include a property situated at Ruelle de la Tour, Castel comprising a bungalow and garden known as ‘Greenhill’ and an historic monument with protected status, known as the Ozanne Tower. The Board received notice from the tenant of ‘Greenhill’ that she wished to terminate her lease and the bungalow is now vacant.

The bungalow is connected to mains electricity, mains water and uses a cesspool facility. In addition and subject to conditions, an agreement exists to enable the property to be connected to the main drain.

The Board now regards this property as surplus to operational requirements and has decided that it should be sold. The Board of Administration has confirmed it has no interest in retaining the property.

The Heritage Committee have investigated the significance of the Ozanne Tower and has concluded that the significance of the structure is :

- Its strong connections with two prominent local families;
- As a rare survival of a folly or curiosity, typical of the 19th century;
- As a building of distinctive local character and materials;
- As an element of defence works by the German occupying forces of WWII;
- As a former museum; and
- As a site of potentially high (underground) archaeological interest.

Following an inspection by engineering staff the Heritage Committee reported that the Ozanne Tower has protected status and is structurally stable but in need of repair.

The Law Officers of the Crown have been consulted both in terms of the transaction and the establishment of boundaries.

In January of this year five local Estate Agents were invited to value the property for sale and the valuations for both bungalow and tower as one unit, ranged from £275,000 to £340,000.

The Board has now received an offer of £335,000 for the entire property from the National Trust of Guernsey, to whom the Board wish to sell if approval is granted.

#### **Permission for Property Transaction**

The Board also recommends the States to authorise the Advisory and Finance Committee to approve the final details of any sale under the procedures for the land and property transactions set out in Appendix X of the 1995 Policy Planning, Economic and Financial Report, notwithstanding that the agreed price exceeds £250,000.

The proceeds of the sale will be credited to the Board's Property Development Fund to finance essential future investment in land and buildings.

#### **Recommendations**

The States Water Board accordingly recommends the States as follows:

- (i) to agree in principle that the property comprising a bungalow and garden known as 'Greenhill' and an historic monument known as the Ozanne Tower be sold;

AND

- (ii) to authorise the Advisory and Finance Committee to approve the final details of any sale under the procedures for land and property transactions set out in Appendix X of the 1995 Policy Planning, Economic and Financial Report, notwithstanding that the agreed price exceeds £250,000.

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

Yours faithfully,

M.E.W. BURBRIDGE,

President,  
States Water Board.

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**(NB The States Advisory and Finance Committee by a majority supports the proposals)**

The States are asked to decide:—

XX.—Whether, after consideration of the Report dated the 24th September, 2002, of the States Water Board, they are of opinion:—

1. To agree in principle that the property comprising a bungalow and garden known as "Greenhill" and an historic monument known as the Ozanne Tower be sold.
2. To authorise the States Advisory and Finance Committee to approve the final details of any sale under procedures for land and property transactions set out in Appendix X of the 1995 Policy Planning, Economic and Financial Support, notwithstanding that the agreed price exceeds £250,000.

**STATES PROCEDURES AND CONSTITUTION COMMITTEE**

**IMPLEMENTATION OF MACHINERY OF GOVERNMENT REFORMS**

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

25th September 2002

Dear Sir,

**IMPLEMENTATION OF MACHINERY OF GOVERNMENT REFORMS**

**Introduction**

1. On the 17th May, 2002 the States resolved, inter alia, that

- I a. Electoral districts for the election of People's Deputies shall be based on parish boundaries;
- b. The position of Douzaine Representative shall be abolished;
- c. There shall be a Parish Representative for each parish, elected by the electorate of the parish, from candidates who shall be Douzeniers;

and directed the States Procedures and Constitution Committee to report to the States and submit appropriate proposals ... for:

- II a. The methods of nomination and election of the Chief Minister;
- b. The methods of nomination and election of Ministers;
- c. The constitutions of Departments;
- d. The methods of nomination and election of Members of Departments;
- e. Voting in the States of Deliberation, to include provision for simultaneous electronic voting, and in Departments;
- f. The constitution of non-governmental Committees, including a Legislation Committee, one or more Scrutiny Committees, and a House Committee, and the method of appointment of Members thereto;
- g. Electoral Districts, and the number of People's Deputies to be elected in each district;
- h. Arrangements for the election of Parish Representatives;

- i. Provisions for an electoral roll inclusion in which shall not necessarily be dependent on making an application in that regard, the administration and promotion of elections including provision that postal ballots shall be available to all electors and not just those who are disabled or absent from the Island, the establishment of an Electoral Commission, and election rules;
  - j. The title to be used by the Presiding Officer of the States of Deliberation, and the incumbent's voting powers;
  - k. The introduction of legislation establishing the principle of Absolute Privilege for proceedings in the States.
- 2. This report deals with the resolutions specified in I and II (g), (h), (j) and certain aspects of (i). The other matters not covered in this report will be addressed in separate reports to the States.
- 3. In this report "the Joint Committees report" means the report of the States Advisory and Finance Committee and the States Procedures and Constitution Committee on the Machinery of Government in Guernsey published in Billet d'État VII of 2002 and "the May 2002 resolutions" means the resolutions of the States on that report, made on the 17th May, 2002.

### **Electoral Districts**

- 4. In the course of the debate on the Joint Committees report there was overwhelming support for the proposal that electoral districts for the election of People's Deputies be based on parish boundaries. The seven districts proposed in the Joint Committees report were:
  - 1. St. Peter Port South
  - 2. St. Peter Port North
  - 3. St Sampson
  - 4. Vale
  - 5. Castel
  - 6. West (ie. parishes of St. Saviour, St. Pierre du Bois, Torteval and Forest)
  - 7. South-East (ie. parishes of St. Martin and St. Andrew)

The boundary between the two St. Peter Port districts would be the line of St. Julian's Avenue, College Street, The Grange, Les Gravées, de Beauvoir and Rohais. The Islands of Herm and Jethou would be included in St. Peter Port South.

- 5. The Joint Committees had proposed that each of the seven districts should be represented by five People's Deputies. The States, however, rejected the proposition that the number of People's Deputies be reduced from 45 to 35. A consequence of that decision is that it is necessary to find an equitable method of distributing 45 seats between the seven districts.
- 6. The States Procedures and Constitution Committee is of the view that this can best be achieved by giving each district six seats with the three districts with the highest populations, that is Vale, Castel and St. Peter Port North, an additional seat. This would, in fact, give a more balanced representation across the districts, as shown on the tables and charts appended to this letter.
- 7. No change is required to The Reform (Guernsey) Law, 1948, as amended to implement the changes in electoral districts. Article 26(2) of The Law states that:

*“For the purpose of elections to the office of People’s Deputy, Guernsey shall be divided into such number of Districts, each being identified by such boundaries, and each returning such number of People’s Deputies provided for in this Law, as may from time to time be prescribed by resolution of the States”.*

8. The States Procedures and Constitution Committee therefore recommends the States to prescribe, by resolution, that, with effect from the General Election due to be held in 2004, the electoral districts for elections to the office of People’s Deputy shall be as set out in paragraph 4 above and that districts 2,4 and 5 shall have seven seats with the remaining districts having six seats.

#### **Abolition of Douzaine Representatives and creation of Parish Representatives**

9. The effect of the May 2002 resolutions is that Douzaine Representatives are to be abolished and a new office, that of Parish Representative, is to be created.
10. The Joint Committees stated that, in the interest of democracy, it would be appropriate that a Parish Representative be elected by the people of the parish, rather than by the Douzaine. They proposed, therefore, that the Parish Representatives should be Douzeniers but should be elected by secret ballot by the electorate in each parish in the same way and on the same day that People’s Deputies are elected. They further proposed that the Parish Representatives should serve the same terms as People’s Deputies, ie. four years.
11. The States Procedures and Constitution Committee is of the opinion that the arrangements for the election of Parish Representatives should be as close as possible to those applicable for the election of People’s Deputies. A Parish Representative who ceases to be a Douzenier before his term of office of Parish Representative expires will also cease to be Parish Representative and a by-election will have to be held. The election and other arrangements will include:
  - (a) eligibility for office;
  - (b) resignation;
  - (c) oath of office and allegiance;
  - (d) the holding of elections;
  - (e) procedure in case of equality of votes;
  - (f) nominations;
  - (g) declaration of election;
  - (h) availability of electoral roll;
  - (i) returning officers;
  - (j) supervision of ballot;
  - (k) presence of candidates, etc. at count;
  - (l) hours of polling;
  - (m) counting of votes/recounts
  - (n) expenditure by candidates and others;
  - (o) absent voters procedures

The Committee recommends the States to direct the preparation of legislation to amend The Reform Law and Loi relative au Scrutin Secret, 1899 to provide that elections to the office of Parish Representative shall, as far as possible, be carried out according to the procedures provided for elections to the office of People’s Deputy.

### **Duty of Parish Representative**

12. Article 16 of The Reform Law provides that it is the duty of a Douzaine Representative to voice in the States the views of the Douzaine which he represents. Although the office of Douzaine Representative is to be abolished one of the requirements for eligibility for the office of Parish Representative is that the candidate shall be a Douzenier of the parish concerned.
13. The States Procedures and Constitution Committee considers that it should, therefore, be a duty of the Parish Representative to voice in the States the views of the Douzaine of which he is a member, when instructed to do so by the Douzaine. As with Douzaine Representatives, however, he would not be bound to vote in accordance with any direction or instruction given to him and would be free on all occasions to cast his vote in accordance with his conscience.

### **Amendments to procedure at elections of People's Deputies**

14. Article 37 of The Reform Law provides for the appointment of a Returning Officer for each electoral district. This means that in the proposed multi-parish districts there would be only one Returning Officer for two parishes in the case of the South-East district and one for four parishes in the case of the West District. It is proposed that each parish in a multi-parish district should have a Deputy Returning Officer who will be responsible for the conduct of the election in his parish.
15. In multi-parish districts the number of votes cast will be counted centrally. The number of votes cast in each of the constituent parishes will not be announced. The declaration of votes cast will, therefore, be for the combined vote of the whole district. To do otherwise would place a candidate in a difficult position if, although successful overall, it showed that he did not have the support of one or more of the parishes of the district.

### **Title and voting powers of the Presiding Officer**

16. Article 1(2) of The Reform Law provides that the Bailiff shall be ex-officio President of the States of Deliberation. It also provides that he may appoint Acting Presidents. Section 1(3) of The Deputy Bailiff (Guernsey) Law, 1969 provides that the Deputy Bailiff shall be ex-officio Deputy President of the States of Deliberation. The provisions with regard to the States of Election are similar.
17. The States Procedures and Constitution Committee considers that the continuing title of President of the States is inappropriate and recommends that the title of "Presiding Officer" should be used instead. The titles of Deputy President and Acting President should similarly be changed to Deputy Presiding Officer and Acting Presiding Officer respectively. This will assist in avoiding any confusion with the Chief Minister who will assume the rôle of political spokesman for the Island.
18. From a practical point of view the States Procedures and Constitution Committee endorses the view that the Presiding Officer and Deputy Presiding Officer should be addressed in the States as "Mr Bailiff" and "Mr Deputy Bailiff" respectively.
19. Article 1(5)(a) provides that the President shall have no original vote but in the event of an equality of votes he shall have a casting vote. It is proposed that the Law be amended to provide that a tied vote (other than in an election) be declared lost. The procedure regarding tied votes in elections is prescribed in the Rules of Procedure of The States of Deliberation. Amendments to the Rules will be proposed in a future report.

### Absent Voters

20. The voting by post system was introduced 30 years ago. At that time, in line with the other jurisdictions, voting by post was (and is) restricted to a person who
  - (a) will probably be out of this Island at the time of an election;
  - (b) is blind;
  - (c) is suffering from a physical defect or disability by reason of which he is incapable of attending at a polling station to vote at an election;
  - (d) a person who is detained in prison otherwise than under a sentence of imprisonment.
21. In 1993 the absent voters provisions were amended to allow an elector to withdraw his name from the Absent Voters Register if his circumstances changed so that he could vote in person. This change was introduced following numerous representations that the then system was unfair. However, since the Law was amended, no applications have been received to remove a name from the Register.
22. During the 2000 General Election of People's Deputies postal ballots were issued to 662 electors. This represented 4.25% of the total numbers of voters. Of the 662 papers issued, 623 (94%) were returned. 536 were issued to persons absent from the Island, 8 to blind persons and 118 to physically incapacitated persons. None was issued to persons detained in prison.
23. Times have changed since the voting by post system started in 1972. Electors are far more mobile and lead busier lives. The Committee sees no reason why the absent voters system should not be extended to anyone regardless of whether or not they qualify under one of the conditions set out in paragraph 20. It is impossible to predict what demand there would be but experiments in the United Kingdom indicate that a significant number of electors prefer to vote by post. Should this be reflected locally it may result in a need to employ a number of additional staff for approximately one month prior to general elections.
24. Where all postal voting has been used (that is no polling stations) turnout improved dramatically in U.K. experiments. For example in South Tyneside turnout increased from 27% to 55%.
25. Electoral practices are going through a significant period of change. In the United Kingdom experiments are currently being held, not only with postal voting, but also voting from home by computer, electronic ballots and counting and so on. Some of the ideas are not yet sufficiently advanced but will in due course become part and parcel of normal electoral practice.
26. The States Procedures and Constitution Committee is of the opinion that the Law should be made as flexible as possible to allow changes in procedure to be introduced without the need to resort to an amending Order in Council. It is therefore proposed that the Reform Law be amended to the effect that the States be enabled, by Ordinance, to amend the provisions regarding voting by post. Such powers would include
  - (a) determining the categories of persons entitled to postal votes;
  - (b) provision for making votes available in person (rather than by post) subject to proof of identity;
  - (c) changes to the documentation and procedures presently prescribed.



### **Administration of Elections/Electoral Commission**

27. The Joint Committees report noted, and concurred with, the Harwood Panel's recommendation that the States should
  - play an active role in promoting elections, by circulating to all householders at each election a notification of the election, and a list of all candidates and polling stations;
  - introduce more formalised election rules; and
  - establish an Electoral Commission to deal with complaints and appeals regarding electoral procedures.
28. The Committee agrees that it will be helpful to advise electors of the polling stations available to them, the dates and times of the election and other relevant information and actively to promote the value of exercising one's right to vote. This will be particularly important in St. Peter Port where, for the first time, the parish will be divided into two electoral districts. In that case it will be essential to notify the electors of the polling station(s) applicable to their district.
29. With regard to the introduction of more formalized election rules the Committee recommends that it be given a general power to make rules regarding the conduct of elections and candidates. At present many such matters are dealt with by means of extra-statutory procedures set out in a handbook for Returning Officers etc. produced by the Registrar-General of Electors.
30. The Committee already has a similar power under Article 38A of the Reform Law regarding the presence of candidates at the counting of votes. As with the Article 38A provision it is proposed that rules made under the proposed new powers would have to be laid before the States who would have the power to annul them if they were not considered appropriate.
31. The Committee accepts that, from time to time, complaints occur with regard to electoral procedures and acknowledges that some form of appeal should be provided.
32. Since the May 2002 decisions the States have resolved to set up a Tribunals Service. In its report the Advisory and Finance Committee stated that it believed *"that if the various appeals and review bodies continue to be dealt with on a piecemeal basis the result will be a multitude of unco-ordinated systems servicing a variety of different groups some of which will meet only very infrequently."*
33. The Committee believes that an Electoral Commission would be such a body that would "meet only very infrequently" and therefore recommends that provision be made in the Reform Law for the States to be enabled, by Ordinance, to determine which matters should be referable to the new Tribunals Service.

### **Recommendations**

34. The States Procedures and Constitution Committee recommends the States to resolve that:
  1. (a) the districts and number of seats available in each district for the purpose of elections to the office of People's Deputy shall, with effect from the 2004 General Election be as follows:



- |    |   |   |
|----|---|---|
| 1. | St. Peter Port South  | 6 |
| 2. | St. Peter Port North  | 7 |
| 3. | St. Sampson   | 6 |
| 4. | The Vale  | 7 |
| 5. | The Castel  | 7 |
| 6. | West (comprising the parishes of St. Saviour,<br>St. Pierre du Bois, Torteval and The Forest) | 6 |
| 7. | South-East (comprising the parishes of St. Martin and<br>St. Andrew)                          | 6 |
- (b) the boundary between the district of St. Peter Port South and St. Peter Port North shall be St. Julian's Avenue, College Street, The Grange, Les Gravées, de Beauvoir and Rohais;
- (c) the island of Herm and Jethou shall form part of the district of St. Peter Port South;
2. The Reform (Guernsey) Law, 1948, as amended and the loi relative au Scrutin Secret of 1899, as amended be further amended to provide
- (a) for the abolition of the office of Douzaine Representative;
- (b) for the creation of the office of Parish Representative and that, so far as is possible, the provisions relating to the office and election of People's Deputy be applied to the office and election of Parish Representative;
- (c) that a Parish Representative shall cease to hold that office if he ceases to be a Douzenier;
- (d) that a duty of a Parish Representative shall be to voice in the States the views of the Douzaine of which he is a member when instructed to do so by the Douzaine but that he shall not be bound to vote in accordance with any direction or instruction given to him;
- (e) for the appointment of a Deputy Returning Officer in multi-parish electoral districts;
- (f) that in multi-parish districts the counting of votes shall take place centrally and the number of votes cast in each of the constituent parishes shall not be announced;
- (g) that the titles of President of the States of Deliberation/Election, Deputy President of the States of Deliberation/Election and Acting President shall be changed respectively to Presiding Officer, Deputy Presiding Officer and Acting Presiding Officer;
- (h) that the Presiding Officer, Deputy Presiding Officer or Acting Presiding Officer, as the case may be, shall have no casting vote and, other than in an election, a tied vote shall be declared lost;
- (i) that the States be empowered to amend, by Ordinance, the provisions of the law relating to postal voting;
- (j) that the States Procedures and Constitution Committee be empowered to make Rules relating to the conduct of elections and candidates;
- (k) that the States be empowered to prescribe, by Ordinance, which matters relating to elections and candidates shall be referable to the Tribunals Service.

## Conclusion

35. 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 2 of paragraph 34 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.”.*

36. 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.

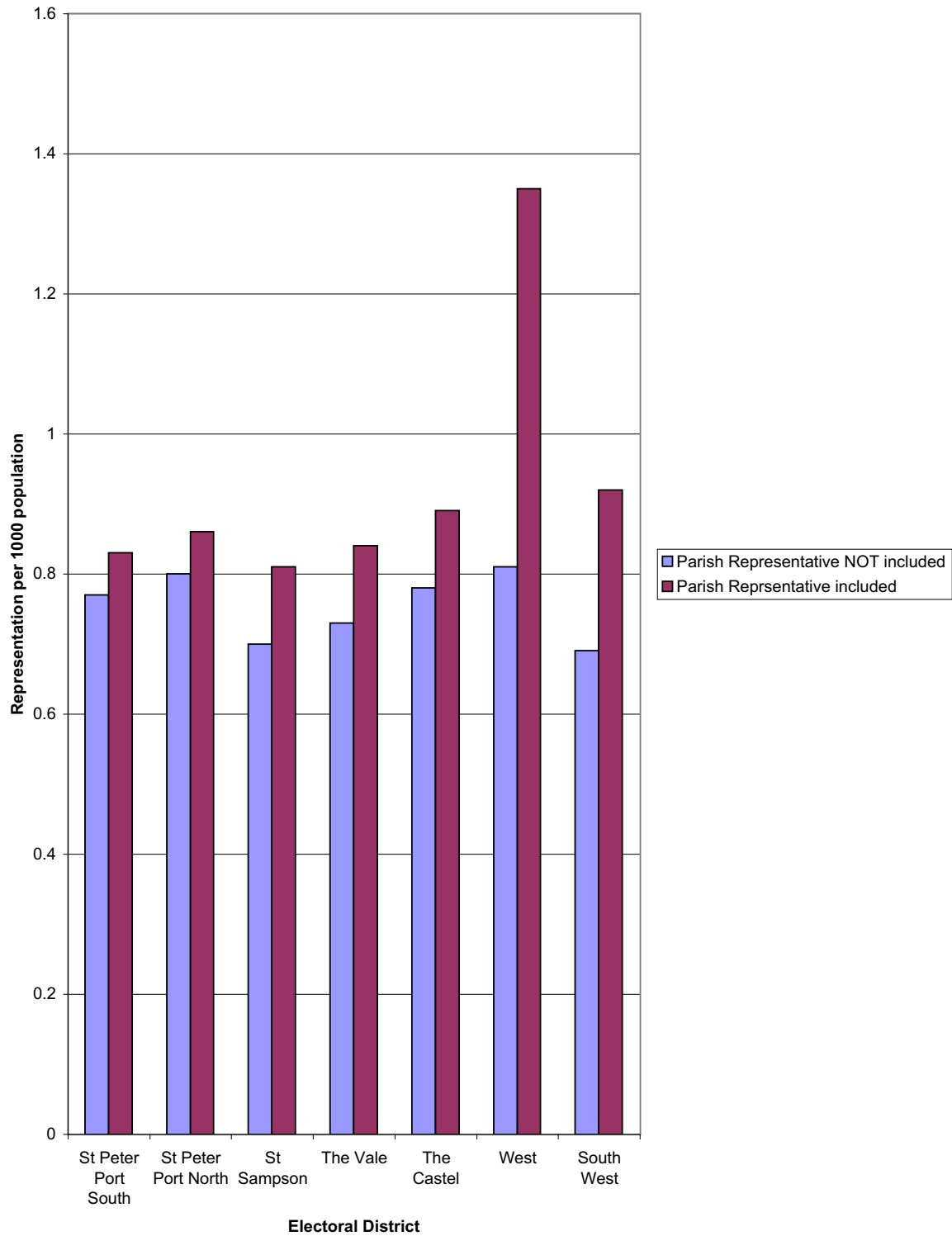
**45 People's Deputies - Parish Representatives NOT included**

<b>Electoral district</b>	<b>Population</b>	<b>People's Deputies</b>	<b>Members per 1000</b>	<b>Variation (%)</b>
St Peter Port South	7,843	6	0.77	1.7
St Peter Port North	8,742	7	0.80	6.4
St. Sampson	8,592	6	0.70	-7.2
The Vale	9,573	7	0.73	-2.8
The Castel	8,975	7	0.78	3.7
West	7,406	6	0.81	7.7
South-East	8,676	6	0.69	-8.1
<i>Total</i>	<i>59,807</i>	<i>45</i>		
<i>Average</i>	<i>8,544</i>	<i>6.4</i>	<i>0.75</i>	<i>0.0</i>
<i>Range</i>	<i>2,167</i>	<i>1</i>	<i>0.12</i>	<i>15.8</i>

**45 People's Deputies - Parish Representatives included**

<b>Electoral district</b>	<b>Population</b>	<b>States Members</b>	<b>Members per 1000</b>	<b>Variation (%)</b>
St Peter Port South	7,843	6.5	0.83	-9.9
St Peter Port North	8,742	7.5	0.86	-6.7
St. Sampson	8,592	7	0.81	-11.4
The Vale	9,573	8	0.84	-9.1
The Castel	8,975	8	0.89	-3.1
West	7,406	10	1.35	46.8
South-East	8,676	8	0.92	0.3
<i>Total</i>	<i>59,807</i>	<i>55</i>		
<i>Average</i>	<i>8,544</i>	<i>7.9</i>	<i>0.92</i>	<i>22.2</i>
<i>Range</i>	<i>2,167</i>	<i>3.5</i>	<i>0.54</i>	<i>58.2</i>

## Distribution of Seats by Electoral District



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

3rd October 2002

Dear Sir,

I refer to the letter dated 25th September 2002 from the President of the States Procedures and Constitution Committee regarding its proposals for the Implementation of Machinery of Government Reforms. The Advisory and Finance Committee is generally supportive of the proposals which are in accordance with the States Resolutions of the 17th May 2002.

One member, however, cannot as a matter of principle support the proposals as he does not agree with the States Resolution of 17th May 2002.

Another member, whilst agreeing that the proposals are consistent with the States decision of 17th May 2002, does not agree with the recommendation set out in sub-paragraph 34(1)(a) and believes that the Island should be divided into seven electoral districts each with six members thus reducing the number of People's Deputies from 45 to 42.

Yours faithfully,

L. C. MORGAN,

President,  
States Advisory and Finance Committee.

The States are asked to decide:—

XXI.—Whether, after consideration of the Report dated the 25th September, 2002, of the States Procedures and Constitution Committee, they are of opinion:—

1. (1) That the districts and number of seats available in each district for the purpose of elections to the office of People's Deputy shall, with effect from the 2004 General Election be as follows:

1.	St. Peter Port South	6
2.	St. Peter Port North	7
3.	St. Sampson	6
4.	The Vale	7
5.	The Castel	7
6.	West (comprising the parishes of St. Saviour, St. Pierre du Bois, Torteval and The Forest)	6
7.	South-East (comprising the parishes of St. Martin and St. Andrew)	6

- (2) That the boundary between the district of St. Peter Port South and St. Peter Port North shall be St. Julian's Avenue, College Street, The Grange, Les Gravées, de Beauvoir and Rohais;
- (3) That the islands of Herm and Jethou shall form part of the district of St. Peter Port South;
2. That the Reform (Guernsey) Law, 1948, as amended and the Loi relative au Scrutin Secret of 1899, as amended be further amended to provide
  - (a) for the abolition of the office of Douzaine Representative;
  - (b) for the creation of the office of Parish Representative and that, so far as is possible, the provisions relating to the office and election of People's Deputy be applied to the office and election of Parish Representative;
  - (c) that a Parish Representative shall cease to hold that office if he ceases to be a Douzenier;
  - (d) that a duty of a Parish Representative shall be to voice in the States the views of the Douzaine of which he is a member when instructed to do so by the Douzaine but that he shall not be bound to vote in accordance with any direction or instruction given to him;
  - (e) for the appointment of a Deputy Returning Officer in multi-parish electoral districts;
  - (f) that in multi-parish districts the counting of votes shall take place centrally and the number of votes cast in each of the constituent parishes shall not be announced;

- (g) that the titles of President of the States of Deliberation/Election, Deputy President of the States of Deliberation/Election and Acting President shall be changed respectively to Presiding Officer, Deputy Presiding Officer and Acting Presiding Officer;
  - (h) that the Presiding Officer, Deputy Presiding Officer or Acting Presiding Officer, as the case may be, shall have no casting vote and, other than in an election, a tied vote shall be declared lost;
  - (i) that the States be empowered to amend, by Ordinance, the provisions of the law relating to postal voting;
  - (j) that the States Procedures and Constitution Committee be empowered to make Rules relating to the conduct of elections and candidates;
  - (k) that the States be empowered to prescribe, by Ordinance, which matters relating to elections and candidates shall be referable to the Tribunals Service.
3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

**(NB Proposition 2. above is subject to the provisions of the Reform (Guernsey) Law, 1948, as amended)**

**STATES PROCEDURES AND CONSTITUTION COMMITTEE**

**DOUZAINE REPRESENTATIVES IN THE STATES OF ELECTION**

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

25th September, 2002.

Dear Sir,

**DOUZAINE REPRESENTATIVES IN THE STATES OF ELECTION**

1. Article 4(2) of The Reform (Guernsey) Law, 1948, as amended provides that the States of Election shall comprise, inter alia, of 34 Douzaine Representatives and Article 15(1) states that 10 of the 34 shall be the 10 elected to the States of Deliberation, the remaining 24 being elected by the most populous parishes.
2. These provisions require amendment as a consequence of the States decision of 17th May, 2002 to abolish the office of Douzaine Representative in the States of Deliberation. The States Procedures and Constitution Committee intends to carry out a full review of the States of Election once it has completed its work relating to the constitutional changes related to the Review of the Machinery of Government in Guernsey.
3. The purpose of this report is simply to provide the minimum of change necessary in the States of Election as a consequence of the States decision to abolish the office of Douzaine Representative in the States of Deliberation.
4. It is proposed, therefore, that with effect from the 1st May, 2004 the States of Election be composed as follows:
  - (a) The Bailiff
  - (b) The 12 Jurats
  - (c) The 10 Rectors
  - (d) The 2 Law Officers of the Crown
  - (e) The 45 People's Deputies
  - (f) The 10 Parish Representatives
  - (g) 24 Douzaine Representatives

As the sole remaining function of the States of Election is the election of jurats there will clearly never be more than 11 jurats present. Insofar as the rectors are concerned Torteval and St Pierre du Bois share an incumbent as do the Forest and St. Saviour. Whilst nominally there are ten rectors the practical position is that at present they occupy only eight seats in the States of Election.



5. The seats for the additional 24 Douzaine Representatives in the States of Election are presently allocated in accordance with the numbers of the respective populations of the several parishes and are as follows:—

St. Peter Port	8
St. Sampson	4
The Vale	5
The Castel	4
St. Martin	<u>3</u>
	<u>24</u>

6. The above allocation was decided in 1996 and may be amended by States' Resolution. The Committee has examined whether or not the allocation of additional Douzaine Representatives in the States of Election should be altered and, having taken into account the relative changes in population revealed in the 2001 Census, recommends that the allocation should be as follows:—

	<i>change</i>	
St. Peter Port	8	
St. Sampson	4	
The Vale	4	-1
The Castel	4	
St. Saviour	1	+1
St. Martin	<u>3</u>	
	<u>24</u>	

7. The States Procedures and Constitution Committee recommends the States to resolve that:
1. the allocation of additional Douzaine Representatives in the States of Election shall be changed to the extent that The Vale shall have one less representative and St. Saviour one more representative;
  2. The Reform (Guernsey) Law, 1948, as amended be further amended to provide that from the 1st May, 2004 the States of Election shall comprise:
    - (a) The Bailiff
    - (b) The 12 Jurats
    - (c) The 10 Rectors
    - (d) The 2 Law Officers of the Crown
    - (e) The 45 People's Deputies
    - (f) The 10 Parish Representatives
    - (g) 24 Douzaine Representatives

8. 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.

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

3rd October 2002

Dear Sir,

I refer to the letter dated 25th September 2002 from the President of the States Procedures and Constitution Committee concerning Douzaine Representatives in the States of Election.

The Advisory and Finance Committee accepts that the purpose of this report is simply to provide the minimum of change necessary in the States of Election as a consequence of the States' decision to abolish the office of Douzaine Representative in the States of Deliberation and, therefore, supports the proposals.

However, the Advisory and Finance Committee believes that the time is right for a more comprehensive review of the States of Election and is pleased to note that the States Procedures and Constitution Committee intends to carry out a full review once it has completed its work relating to the constitutional changes related to the Review of the Machinery of Government in Guernsey.

Yours faithfully,

L. C. MORGAN,

President,  
States Advisory and Finance Committee.

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The States are asked to decide:—

XXII.—Whether, after consideration of the Report dated the 25th September, 2002, of the States Procedures and Constitution Committee, they are of opinion:—

1. That the allocation of additional Douzaine Representatives in the States of Election shall be changed to the extent that the Vale shall have one less representative and St. Saviour one more representative.
2. That the Reform (Guernsey) Law, 1948, as amended, shall be further amended to provide that from the 1st May, 2004, the States of Election shall comprise:
  - (a) The Bailiff
  - (b) The 12 Jurats
  - (c) The 10 Rectors
  - (d) The 2 Law Officers of the Crown
  - (e) The 45 People's Deputies
  - (f) The 10 Parish Representatives
  - (g) 24 Douzaine Representatives
3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

**STATES PROCEDURES AND CONSTITUTION COMMITTEE**

**PARISH ELECTIONS**

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

25th September 2002

Dear Sir,

**PARISH ELECTIONS**

1. Article 54 of The Reform (Guernsey) Law, 1948, as amended, states that the Dean of the Douzaine is responsible for fixing the date of elections for the office of Constable and the Senior Constable is responsible for doing so in the case of elections for the office of Douzenier. They are also responsible, respectively, in respect of elections of Procureurs and Overseers of the Poor and members of Schools Committees.
2. In 2001 the parishes held the annual parochial elections on nine different days between the 14th November and 12th December. Two were held on a Monday evening, three on Wednesdays, three on Thursdays and two on Fridays. There were no deferred ballots in the annual round of elections in 2001.
3. The States Procedures and Constitution Committee has, for some time, considered that the parochial elections would be of greater public interest if they were held in each parish on the same day.
4. The views of the Douzaines of each parish were sought on the matter. Seven parishes favoured the proposal that parish elections should be held on the same day throughout the Island whilst the other three parishes were opposed to the suggestion.
5. Unsurprisingly there was no consensus as to when the elections should be held. No particular week or day of the week was supported by more than four parishes.
6. The Law presently states that seven electors may, at the Parish meeting, demand a deferred ballot, that is an election where the formalities are similar to those of an election for a People's Deputy. If a deferred ballot is requested it has to be held between 8 and 15 days from the date of the Parish meeting.
7. The Committee having taken into account dates of elections in previous years proposes that parochial elections should be held on the second Thursday of the month of November. The Committee also proposes that if a deferred ballot is requested then it should be held on the fourth Thursday of November.

8. Whilst the second/fourth Thursday of November would be the norm the Committee anticipates that, from time to time, the second and/or the fourth Thursday will not be convenient for a particular reason. It therefore proposes that the States be enabled to prescribe different dates by Ordinance.
9. The States Procedures and Constitution Committee therefore recommends the States to agree that The Reform (Guernsey) Law, 1948, as amended be further amended to provide that all annual elections for the offices of Constable, Douzenier, Procureur of the Poor, Overseer of the Poor and Member of Schools Committee be held throughout the Island on the second Thursday of November and, if a deferred ballot be requested that it be held on the fourth Thursday of November save that the States be enabled to prescribe alternative dates by Ordinance.
10. 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

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

The States are asked to decide:—

XXIII.—Whether, after consideration of the Report dated the 25th September, 2002, of the States Procedures and Constitution Committee, they are of opinion:—

1. That the Reform (Guernsey) Law, 1948, as amended, shall be further amended to provide that all annual elections for the offices of Constable, Douzenier, Procureur of the Poor, Overseer of the Poor and Member of Schools Committee, be held throughout the Island on the second Thursday of November and, if a deferred ballot be requested that it be held on the fourth Thursday of November save that the States be enabled to prescribe alternative dates by Ordinance.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

REQUÊTE

ACCESS TO LEVONELLE/2

TO THE PRESIDENT AND MEMBERS OF THE STATES OF DELIBERATION

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation SHEWETH:—

1. That in the opinion of your Petitioners LEVONELLE/2 (or Levonorgestrel 75mg) should be available without prescription.
2. That your Petitioners acknowledge that use of Levonelle/2 should be carefully monitored but are assured that pharmacists have the professional ability to offer this service in addition to general practitioners and the Family Planning Clinic.

THESE PREMISES CONSIDERED

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

To direct the States Board of Health to place before the States, as part of that Board's current review of pharmaceutical legislation, proposals to allow recognised pharmacists to dispense Levonelle/2 without a doctor's prescription.

AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY, this 18th day of June, 2002



Judy Beaugeard



Dave Jones



Brian Gabriel



Patricia Mellor



John Roper



Leon Gallienne



Mary Lowe



Rhoderick Matthews



Kevin Prevel



D.A. Barrett



A.H. Adam



B. Russell



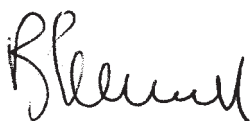
L. Trott



J. Pritchard



Ann Robilliard



Brian Sheriff



William Walden

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

29th July, 2002.

Dear Sir,

**REQUÊTE – LEVONELLE/2**

I refer to the Requête, dated 18th June 2002 and signed by Deputy Mrs Beauguard and sixteen other members of the States requesting that Levonelle/2 should be available from recognised pharmacists without a doctor's prescription.

The Committee has sought the Board of Health's comments on the Requête and these are appended in a letter dated 10 July 2002 from the President of that Board.

As detailed in that letter, the Board has sought advice from a range of health professionals amongst whom there are a range of opinions.

Like the health professionals whom the Board of Health consulted, the Board itself is also divided on this issue, though a majority of its members, on the advice that they have received, would prefer to maintain the status quo.

In these circumstances, the Committee does not feel that it would be appropriate for it to comment on this Requête. It believes that this is a matter for individual States members, having considered the contents of the attached letter from the Board of Health.

Yours faithfully,

L. C. MORGAN,

President,  
States Advisory and Finance Committee.

Deputy L C Morgan  
President  
Advisory and Finance Committee  
Sir Charles Frossard House  
PO Box 43  
La Charroterie  
St Peter Port  
GY1 1FH

10th July, 2002.

Dear Deputy Morgan

**Subject: Requête - Levonelle/2**

Thank-you for the letter of 20 June 2002 from Deputy Berry referring to the Requête signed by Deputy Mrs Beugeard and sixteen other members of the States requesting that Levonelle/2 should be made available 'without prescription' through recognised pharmacists.

The Board has sought advice from a range of health professionals amongst whom there are a range of opinions.

The British Medical Association (Guernsey and Alderney Branch) is in favour of maintaining the status quo on the grounds that it appears to work well, that Guernsey is not the UK, that we appear to have a lower rate of unwanted pregnancies and that the deregulation of the 'morning after pill' in the UK was seen by many as 'political spin' in order to be seen to address the highest teenage pregnancy rate in Europe, particularly during the busy post Christmas period when National Health Services were going to be extremely stretched, and access to general practitioners, etc would have been particularly difficult.

The Guernsey Family Planning Service is also against the proposal, pointing out the increasing numbers of new clients they are attracting to their clinics and the increasing proportion of these who are under 20 years of age. The Board of Health has offered them additional funding to run a five day service, and they are hopeful that they will be able to extend their services once they have recruited additional female medical practitioners.

They are very concerned that 'over the counter' supply of Levonelle/2 would reduce opportunities for follow-up and advice on future contraception.

The Sexual Health Service is also against any change. They point out that the 'morning after pill' is not the best approach to contraception, that this needs to be discussed in the context of overall sexual risk, and that a greater reliance on 'over the counter' treatment would be expected to result in a large rise in chlamydia and other sexually transmitted diseases as is currently being experienced in England.

The Chief Pharmacist is also against this proposal. He points out that any change will not be able to be actioned immediately without a consequent change in our Medicines Legislation. Although this is being prepared at present, it is likely to be several years before it is passed and implemented. He also points out that with only a few exceptions, most pharmacists' premises are not set up for the confidential 'one to one' counselling which should accompany dispensing the 'morning after

pill'. There is also an issue of training for the pharmacists carrying out this role and the maintenance of their competency.

To bring all premises up to the required standard would require some remodelling of premises at their own cost, and also the need to maintain regular pharmacy inspections by the Chief Pharmacist and his staff, who are already very much extended with their current workload.

Several members of the Royal Pharmaceutical Society share this view and feel that the expense involved in such remodelling would negate any financial benefits of dispensing the 'morning after pill', in such limited quantities (no more than a few dozen cases by any particular pharmacy throughout the year). There are, however, members of the Royal Pharmaceutical Society who support the requêtes proposals and would be prepared to dispense the 'morning after pill' without a doctor's prescription if this was legal in Guernsey.

The Director of Public Health feels that, on balance, a small decrease in unwanted pregnancies could be more than outweighed by a rise in sexually transmitted diseases. In public health terms, it would be preferable to retain our present 'prescription only' status for Levonelle/2, with the opportunity for more appropriate longer term contraceptive advice and for the potential for screening for sexually transmitted diseases where indicated.

Like the health professionals we have consulted, the Board of Health is also divided on this issue, although the majority, on the advice they have received, would prefer to maintain the status quo.

However, a minority of the Board agrees with the petitioners that Levonelle/2 (or Levonorgestrel 75 mg) should be available without prescription. These members of the Board understand that there is no more danger to the physical health of the individual from Levonelle/2 being sold over the counter by pharmacists than from other items currently dispensed by pharmacists without prescription. Whilst they accept that restricting the sale of Levonelle/2 gives an opportunity to General Practitioners and the Guernsey Family Planning Service to discuss issues regarding contraception with women when they request a prescription, they do not accept that any significant increase in unwanted pregnancies or sexually transmitted diseases would result from pharmacists being able to dispense Levonelle/2 without a doctor's prescription. Indeed, these members believe that 'over the counter' sales could lead to a reduction in unwanted pregnancies, due to the greater availability afforded by pharmacists' opening hours compared with the Guernsey Family Planning Service and the greater affordability of buying Levonelle/2 from a pharmacist compared to the cost of a consultation with a general practitioner.

The minority of the Board of Health believes that it is inappropriate to deprive women of the opportunity to purchase Levonelle/2 from a pharmacy without a doctor's prescription. These members consider that the vast majority of women who are seeking this medication are doing so when another method of contraception has failed or, for good reason, it has not been possible to use another method of contraception. It is not considered that this would lead to regular use of Levonelle/2 as an alternative to other methods of contraception.

Whether or not the decision in the UK to allow 'over the counter' sales of Levonelle/2 was a reaction to the rate of teenage pregnancies there being the highest in Europe is not considered by these members of the Board to be relevant. The questions that they do consider to be relevant are whether 'over the counter' sales would constitute a danger to the health of individuals or the population and, if not, why women should be restricted in their access to the 'morning after pill'.



On the first of these, no evidence has been produced that there will be any increased risk to the individual or that this will result in any significant increase in sexually transmitted diseases. This would only occur-if the 'morning after pill' became used as a regular alternative to certain other methods of contraception. As the minority of the Board does not believe this will happen, it considers that there is no good reason to force women to visit a general practitioner or the Guernsey Family Planning Service in order to obtain Levonelle/2.

Yours sincerely,

PETER ROFFEY,

President,  
States Board of Health.

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The States are asked to decide:—

XXIV.—Whether, after consideration of the Requête dated the 18th June, 2002, signed by Deputy Mrs. J. M. Beugeard and sixteen other Members of the States, they are of opinion:—

To direct the States Board of Health to place before the States, as part of that Board's current review of pharmaceutical legislation, proposals to allow recognised pharmacists to dispense Levonelle/2 without a doctor's prescription.

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

The Royal Court House,  
Guernsey.  
The 11th October, 2002.

## APPENDIX

### STATES CIVIL SERVICE BOARD

#### GENERAL SALARY SCALES OF THE ESTABLISHED STAFF

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

28th August, 2002.

Dear Sir,

In accordance with States Resolution XXXVI of 28 October 1987, as amended, I have the honour to enclose, for publication as an Appendix to a Billet d'État, details of the salary minima and maxima of the Established Staff general grades applying from 1 May 2002, following the completion of negotiations to determine Civil Service salaries. The number of staff by grades is also detailed.

Yours faithfully,

A. SAUVARIN,

President,  
States Civil Service Board.

**ESTABLISHED STAFF OF THE STATES OF GUERNSEY**  
**The Salary Minima & Maxima of the General Grades**

	AT 1.5.02 £	
Senior Officer 9+	72822/82105	Note 1
Senior Officer 9	66555/75038	
Senior Officer 8	60825/68582	
Senior Officer 7	55593/62679	
Senior Officer 6	50808/57288	
Senior Officer 5	46434/52357	
Senior Officer 4	42436/47847	
Senior Officer 3	38784/43729	
Senior Officer 1/2	32392/39964	
Senior Officer 1	32392/36526	
 Executive Grade V	 30418/32148	 Note 2
Executive Grade IV	27998/29590	
Executive Grade III	25476/27157	
Executive Grade II	22977/24613	
Executive Grade I	20426/22092	
 Administrative Assistant 2	 16861/19246	 Note 3
Administrative Assistant 1	12888/16462	
Clerical Assistant	10067/12888	
 Personal Assistant 2	 21782/23334	 Note 4
Personal Assistant 1	19687/21090	
Typist C	17457/19063	
Typist B	12055/17457	
Typist A	10120/14837	
 Other Grades	 8310/31238	 Note 5

Note 1      There are some 1778 Established Staff in total on the general grades.

There are some 284 staff (16% of total) on the Senior Officer grades. Four Senior Officers are paid above the general grade on special salaries, the highest of which from 1 May 2002 is £96143.

Note 2      There are some 741 staff (42% of total) on the Executive Grades.

Note 3      There are some 372 staff (21% of total) on the Administrative Assistant, Clerical Assistant and equivalent grades.

Note 4      There are some 108 staff (6% of total) on the Personal Assistant and Typist grades.

Note 5      There are some 273 staff (15% of total) on other grades ie, Non-Standard, Miscellaneous, Home Staff, School Administration Assistant and Classroom Assistant whose salaries broadly span Clerical Assistant to Executive Grade V.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 30TH DAY OF OCTOBER, 2002

The States resolved as follows concerning Billet d'Etat No. XXII  
dated 11th October, 2002

**PROJET DE LOI**

entitled

**THE HEALTH SERVICE (BENEFIT) (GUERNSEY) (AMENDMENT) LAW, 2002**

- I. To approve the Projet de Loi entitled "The Health Service (Benefit) (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 SOCIAL INSURANCE (RATES OF CONTRIBUTIONS AND BENEFITS, ETC.)  
ORDINANCE, 2002**

- II. To approve the draft Ordinance entitled "The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE INSURANCE BUSINESS (BAILIWICK OF GUERNSEY) LAW, 2002  
(COMMENCEMENT) ORDINANCE, 2002**

- III. To approve the draft Ordinance entitled "The Insurance Business (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2002", and to direct that the same shall have effect as an Ordinance of the States.

**THE INSURANCE MANAGERS AND INSURANCE INTERMEDIARIES  
(BAILIWICK OF GUERNSEY) LAW, 2002 (COMMENCEMENT) ORDINANCE, 2002**

- IV. To approve the draft Ordinance entitled "The Insurance Managers and Intermediaries (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2002" and to direct that the same shall have effect as an Ordinance of the States.

**THE FINANCIAL SERVICES COMMISSION (BAILIWICK OF GUERNSEY)  
(AMENDMENT) LAW, 2002 (COMMENCEMENT) ORDINANCE, 2002**

- V. To approve the draft Ordinance entitled "The Financial Services Commission (Bailiwick of Guernsey) (Amendment ) Law, 2002 (Commencement) Ordinance, 2002" and to direct that the same shall have effect as an Ordinance of the States.

**ELIZABETH COLLEGE BOARD OF DIRECTORS**

**NEW MEMBER**

- VI. To elect Jurat D. M. Le Page as a member of the Elizabeth College Board of Directors, to complete the unexpired portion of the term of office of Advocate J. N. van Leuven, who has resigned as a member of that Board, namely, to the 5th January, 2004.

**STATES LIBERATION CELEBRATIONS COMMITTEE**

**NEW MEMBER**

- VII. To elect Mr. Barry Brehaut as a member of the States Liberation Celebrations Committee, who need not be a sitting member of the States, to complete the unexpired portion of the term of office of Mr. M. S. Lainé, who has resigned as a member of that Committee, namely, to the 31st May, 2003.

**STATES ADVISORY AND FINANCE COMMITTEE**

**CHANGES TO COMPANY LAW**

- VIII. After consideration of the Report dated 25th September, 2002 of the States Advisory and Finance Committee:-

TO GRANT LEAVE to the President of the States Advisory and Finance Committee to withdraw this Article.

**STATES ADVISORY AND FINANCE COMMITTEE**

**AMENDMENTS TO REGULATORY LEGISLATION**

- IX. After consideration of the Report dated 26th September, 2002 of the States Advisory and Finance Committee:-

1. That amendments to Regulatory Legislation shall be prepared as detailed in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

## **STATES ADVISORY AND FINANCE COMMITTEE**

### **REVIEW OF STATES OF GUERNSEY AUDIT ARRANGEMENTS**

X. After consideration of the Report dated 22nd August, 2002 of the States Advisory and Finance Committee:-

1. That the membership of the States Audit Commission shall be 6 persons, all elected by the States from persons nominated by the States Advisory and Finance Committee who are not members of the States.
2. That members of the States Audit Commission shall be entitled to receive remuneration as determined by the States Advisory and Finance Committee from time to time.
3. To direct the preparation of such legislation as may be necessary to give effect to their decisions on Propositions 1. and 2. above.
4. To note the intention of the States Advisory and Finance Committee to report back as soon as possible on the results of its detailed investigations into the formation of an Auditor General's Office.
5. To approve the Statement of Rôle and Responsibilities of the Internal Audit Department as set out in Appendix II attached to that Report.

## **STATES ADVISORY AND FINANCE COMMITTEE**

### **THIRTEENTH PROTOCOL TO THE EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

XI. After consideration of the Report dated 29th August, 2002 of the States Advisory and Finance Committee:-

That Her Majesty's Government be requested to make a declaration to extend the provisions of the 13th Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms to Guernsey.

## **STATES BOARD OF ADMINISTRATION AND STATES COMMITTEE FOR HOME AFFAIRS**

### **DETENTION OF SUSPECTS WITHOUT CHARGE – PROVISION OF ANNUAL STATISTICS**

XII. After consideration of the Joint Report dated 30th August, 2002 of the States Board of Administration and the States Committee for Home Affairs:-

1. To note the contents of that Report.
2. To NEGATIVE the Proposition that in future years statistics shall be provided in the form laid out in the schedule to that Report and issued as an appendix to the Billet.

## **STATES BOARD OF ADMINISTRATION**

### **GUERNSEY AIRPORT – INSTALLATION OF MARITIME RADAR – ANGLO/FRENCH SAFETY OF NAVIGATION SCHEME**

XIII. After consideration of the Report dated the 24th September, 2002, of the States Board of Administration:-

1. To approve the construction of a maritime radar installation at the States Airport by the French Authorities as set out in that Report.
2. To authorise the Board of Administration to lease to the French Authorities the area of land for a period of 25 years.

## **ISLAND DEVELOPMENT COMMITTEE**

### **PROGRAMME FOR THE REVIEW OF THE DETAILED DEVELOPMENT PLANS – JOINT REVIEW OF RURAL AREA PLAN PHASES 1 AND 2**

XVIII. After consideration of the Report dated 11th September, 2002, of the Island Development Committee:-

1. That the Rural Area Plan (Phase 1) and the Rural Area Plan (Phase 2) shall continue to have effect until the 31st December, 2003.
2. To note that in accordance with the Strategic and Corporate Plan (Strategic Land Use Plan) 2002, the majority of the Island's development needs have been provided for in the Urban Area Plan 2002 and the prevailing theme underlying the review of the Rural Area Plan will therefore be one of conservation and enhancement of the rural environment.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 31ST DAY OF OCTOBER, 2002

(Meeting adjourned from the 30th October, 2002)

The States resolved as follows concerning Billet d'Etat No. XXII  
dated 11th October, 2002

**STATES BOARD OF ADMINISTRATION**

**EXTENSION AND ALTERATIONS TO THE ROYAL COURT**

XIV. After consideration of the Report dated the 26th September, 2002, of the States Board of Administration:-

1. To agree to the extension of the courts as set out in that Report at a total cost not exceeding £17,500,000, including £3,000,000 voted in December 2000 (Billet d'Etat XXV, 2000).
2. To direct the States Board of Administration to proceed with HBG with Nicholas Hare Architects as the preferred architect-led design team and to negotiate terms between HBG and prospective contractors, subject to the approval of the States Advisory and Finance Committee.
3. To direct the States Board of Administration to issue tender documentation for a two-stage design and build contract to R G Falla Ltd, John Mowlem (Guernsey) Ltd, and Alfred McAlpine Special Projects within the maximum figure as outlined in that Report.
4. To instruct the States Board of Administration Board to appoint a main contractor for the above project from one of the three Companies named in proposition 3 above, under a two-stage design and build contract incorporating the design team, subject to the approval of the Advisory and Finance Committee.
5. To direct the States Board of Administration to appoint other professionals, to procure works, investigations and surveys, and to accept tenders and enter into any necessary contracts as may be necessary to execute this project, subject to the approval of the States Advisory and Finance Committee where appropriate.
6. To vote the States Board of Administration a credit of £14,500,000 to cover the cost of the above, which sum shall be charged to that Board's capital allocation;
7. To authorise the States Advisory and Finance Committee to transfer the sum of £14,500,000 from the Capital Reserve to the capital allocation of the States Board of Administration.



IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 1ST DAY OF NOVEMBER, 2002

(Meeting adjourned from the 31st October, 2002)

The States resolved as follows concerning Billet d'Etat No. XXII  
dated 11th October, 2002

**STATES EDUCATION COUNCIL AND STATES BOARD OF INDUSTRY**

**TRAINING AGENCY – FUTURE FUNDING**

- XV. After consideration of the Joint Report dated the 13th September, 2002, of the States Education Council and the States Board of Industry:-
1. To continue to assist the funding of the Training Agency for the next three years by means of an annual grant and that, from 2003, such funding shall be made from the revenue expenditure budget of the States Board of Industry.
  2. That the annual grant shall be £365,000 in 2003 and that that sum shall be increased in line with the increase in States budgets generally for the subsequent two years.
  3. To authorise the States Board of Industry to submit a general revenue budget for 2003 that exceeds by £350,000 the cash limit approved by the States in July 2002 and to note that the general revenue budget of the States Advisory and Finance Committee will be decreased by £200,000, the current level of States grant.
  4. To direct the States Advisory and Finance Committee to take account of the annual grant to the Training Agency when recommending to the States revenue allocations for the States Board of Industry for 2004 and 2005.
  6. To note that the States Education Council and the States Board of Industry will return to the States with a joint policy letter before the end of 2003, reviewing the successes, aspirations and future costs of the Training Agency and the potential for integration of the work of the Business School and the Training Agency.

## **STATES BOARD OF INDUSTRY**

### **REGULATION OF UTILITIES (BAILIWICK OF GUERNSEY) LAW, 2001 – FUNDING A COMPETITION FOR MOBILE TELEPHONY LICENCES**

XVI. After consideration of the Report dated the 16th September, 2002, of the States Board of Industry:-

1. To advance a short-term loan to the Director General of Utility Regulation for the purposes of funding a competition for mobile telephony licences, as detailed in that Report.
2. To approve the terms and conditions for the granting and repayment of that loan to the Director General, as set out in section 5 of that Report.
3. To note that in the extreme event of one or more licences not being granted, the cost of holding the competition for mobile telephony licences will be met in full by the States.

## **STATES BOARD OF INDUSTRY**

### **THE REGULATION OF UTILITIES (BAILIWICK OF GUERNSEY) LAW, 2001 – APPOINTMENT OF APPEALS PANEL**

XVII. After consideration of the Report dated the 18th September, 2002, of the States Board of Industry:-

1. To approve the membership of the Utility Appeals Panel as set out in the Appendix to that Report.
2. To designate Professor Michael John Waterson as Chairman of the Utility Appeals Panel.
3. To designate Professor Martin Cave as Deputy Chairman of the Utility Appeals Panel.

## **STATES WATER BOARD**

### **REVISION OF THE WATER BYE-LAWS**

XIX. After consideration of the Report dated the 29th August, 2002, of the States Water Board:-

1. That the provisional Ordinance sanctioning the Bye-laws made by the States Water Board for the prevention of Waste, Undue Consumption, Misuse or Contamination of Water 1948, shall be repealed and a new Ordinance along the lines set out in that Report enacted.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

## **STATES WATER BOARD**

### **PROPOSED SALE OF BUNGALOW KNOWN AS "GREENHILL" SITUATED AT RUETTE DE LA TOUR, CASTEL**

XX. After consideration of the Report dated the 20th September, 2002, of the States Water Board:-

1. To agree in principle that the property comprising a bungalow and garden known as "Greenhill" and an historic monument known as the Ozanne Tower be sold.
2. To authorise the States Advisory and Finance Committee to approve the final details of any sale under procedures for land and property transactions set out in Appendix X of the 1995 Policy Planning, Economic and Financial Report, notwithstanding that the agreed price exceeds £250,000.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 27TH DAY OF NOVEMBER, 2002

(Meeting adjourned from 1st November, 2002)

The States resolved as follows concerning Billet d'Etat No. XXII  
dated 11th October, 2002

**STATES PROCEDURES AND CONSTITUTION COMMITTEE**  
**IMPLEMENTATION OF MACHINERY OF GOVERNMENT REFORMS**

XXI. After consideration of the Report dated the 25th September, 2002, of the States Procedures and Constitution Committee:-

1. (1) That the districts and number of seats available in each district for the purpose of elections to the office of People's Deputy shall, with effect from the 2004 General Election be as follows:

1.	St. Peter Port South	6
2.	St. Peter Port North	7
3.	St. Sampson	6
4.	The Vale	7
5.	The Castel	7
6.	West (comprising the parishes of St. Saviour, St. Pierre du Bois, Torteval and The Forest)	6
7.	South-East (comprising the parishes of St. Martin and St. Andrew)	6

- (2) That the boundary between the district of St. Peter Port South and St. Peter Port North shall be St. Julian's Avenue, College Street, The Grange, Les Gravées, de Beauvoir and Rohais;

- (3) That the islands of Herm and Jethou shall form part of the district of St. Peter Port South;

2. By a majority of more than two-thirds of the members present and voting, that the Reform (Guernsey) Law, 1948, as amended, and the Loi relative au Scrutin Secret of 1899, as amended, be further amended to provide

- (a) for the abolition of the office of Douzaine Representative;
- (b) for the appointment of a Deputy Returning Officer in multi-parish electoral districts;
- (c) that in multi-parish districts the counting of votes shall take place centrally and the number of votes cast in each of the constituent parishes shall not be announced;

- (d) that the titles of President of the States of Deliberation/Election, Deputy President of the States of Deliberation/Election and Acting President shall be changed respectively to Presiding Officer, Deputy Presiding Officer and Acting Presiding Officer;
  - (e) that the Presiding Officer, Deputy Presiding Officer or Acting Presiding Officer, as the case may be, shall have no casting vote and, other than in an election, a tied vote shall be declared lost;
  - (f) that the States be empowered to amend, by Ordinance, the provisions of the law relating to postal voting;
  - (g) that the States Procedures and Constitution Committee be empowered to make Rules relating to the conduct of elections and candidates;
  - (h) that the States be empowered to prescribe, by Ordinance, which matters relating to elections and candidates shall be referable to the Tribunals Service.
3. TO NEGATIVE the proposition that the Reform (Guernsey) Law, 1948, as amended, and the Loi relative au Scrutin Secret of 1899, as amended, be further amended to provide for the creation of the office of Parish Representative and that, so far as is possible, the provisions relating to the office and election of People's Deputy be applied to the office and election of Parish Representative.
4. By a unanimous decision, to direct the preparation of such legislation as may be necessary to give effect to their above decisions.

## **STATES PROCEDURES AND CONSTITUTION COMMITTEE**

### **DOUZAINÉ REPRESENTATIVES IN THE STATES OF ELECTION**

XXII. After consideration of the Report dated 25th September, 2002, of the States Procedures and Constitution Committee:-

TO GRANT LEAVE to the President of the States Procedures and Constitution Committee to withdraw this Article.

## **STATES PROCEDURES AND CONSTITUTION COMMITTEE**

### **PARISH ELECTIONS**

XXIII. After consideration of the Report dated 25th September, 2002, of the States Procedures and Constitution Committee:-

1. By a unanimous decision, that the Reform (Guernsey) Law, 1948, as amended, shall be further amended to provide that all annual elections for the offices of Constable, Douzenier, Procureur of the Poor, Overseer of the Poor and Member of Schools Committee, be held throughout the Island on the first Wednesday of November or, if the first Wednesday of November, shall be the 5th November, on the first Tuesday of November, and, if a deferred ballot be requested, that it be held on the third Wednesday of November, save that the States be enabled to prescribe alternative dates by Ordinance.
2. By a unanimous decision, to direct the preparation of such legislation as may be necessary to give effect to their above decision

### **REQUÊTE**

#### **LEVONELLE/2**

XXIV. After consideration of the Requête dated the 18th June, 2002 signed by Deputy Mrs. J. M. Beaugeard and sixteen other Members of the States:-

To direct the States Board of Health to place before the States, as part of that Board's current review of pharmaceutical legislation, proposals to allow recognised pharmacists to dispense Levonelle/2 without a doctor's prescription.

**K. H. TOUGH**  
**HER MAJESTY'S GREFFIER**