



BILLET D'ÉTAT

WEDNESDAY, 13th DECEMBER, 2006

XXI
2006

1. Home Department - The Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006^a, p. 2349
2. Projet de Loi entitled "The Social Insurance (Guernsey) (Amendment) Law, 2006", p. 2351
3. The Foreign Tax (Retention Arrangements) (Guernsey and Alderney) (Amendment) Ordinance, 2006, p. 2351
4. Elizabeth College Board of Directors - New Member, p. 2352
5. Priaulx Library Council – New Member, p. 2352
6. Housing Department - Corporate Housing Programme – Progress Against the 2006 Action Plans, p. 2353
7. Health and Social Services Department - Electronic Health and Social Care Record (EHSCR), p. 2376
8. Commerce and Employment Department - Review of Trust Law in Guernsey, p. 2398
9. Commerce and Employment Department - Amendments to Financial Services Legislation^b, p. 2421

Ordinance laid before the States

The Lebanon (Restrictive Measures) (Guernsey) Ordinance, 2006, p. 2429

APPENDICES

1. Education Department - Elizabeth College - Principal's Annual Report 2005/06. p. 2430
2. Public Sector Remuneration Committee – States of Guernsey Public Servants' Pension Scheme: 2007 Pensions Increase, p. 2448

^a Accompanying Projet de Loi entitled "The Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006"

^b Accompanying Projet de Loi entitled "The Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006"

B I L L E T D ' É T A T

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE, on WEDNESDAY, the 13th DECEMBER, 2006**, immediately after the meetings already convened for that day, to consider the items contained in this Billet d'État which have been submitted for debate by the Policy Council.

G. R. ROWLAND
Bailiff and Presiding Officer

The Royal Court House
Guernsey
24 November 2006

HOME DEPARTMENT**THE CRIMINAL JUSTICE (COMMUNITY SERVICE ORDERS)
(BAILIWICK OF GUERNSEY) LAW, 2006**

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

6th November 2006

Dear Sir

1. Executive Summary

The purpose of this report is to seek to amend section 1(1) of the draft Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006 (“the Law”), which is included in the legislation brochure which accompanies this Billet d’État. The Bailiff has given his consent to this additional Report being laid before the States at the same time as the Projet de Loi. This amendment goes further than the proposals set out in the Department’s States Report dated 4th October 2005, which recommended that a Community Service Order could be made in respect of a person aged 16 years or over who had been found guilty of an offence punishable by imprisonment.

However, during the preparation of the draft Law the Department noted that the age at which the Courts can sentence somebody to a term of imprisonment is 14 years. Following discussions with the Courts and the Law Officers, the Department agreed that the Law should parallel the age at which somebody can receive a prison sentence.

2. Background

In its States Report, “Community Service a New Sentencing Option for the Criminal Courts”, the Department recommended that the minimum age for the Courts to make a Community Service Order should be 16 years. The age was set at 16 because from 2007/2008 the school leaving age will be increased from 15 to 16 years. That is, this approach would not preclude those still in full time education from being made subject to Community Service as some participants may be in post-16 education. It also mirrored the approach adopted under the Jersey Community Service Scheme on which the Guernsey scheme is broadly modelled.

However, by setting the age at which a Community Service Order could be made at 16, when the age at which the Courts may sentence somebody to a term of imprisonment is 14 years, may mean that where a 14 or 15 year old is found guilty of an imprisonable

offence the Court will have less sentencing options than if the offender was aged 16 years or over.

The Department acknowledges that 14 years appears extremely young for somebody to be subject to Community Service. However, the scheme is being developed on the basis that if an offender is fit for prison they are fit for Community Service and there will be the additional safeguard that each individual offender will be assessed by the Probation Service before a recommendation is made to the Court. This assessment will consider the suitability of all the sentencing options available to the Court and the recommendation will reflect the Probation Service's opinion as to the most effective sentence to reduce the risk of re-offending.

Further, the Department is also mindful that with the advent of the new Children's Law most young people, up to the age of 17, will be dealt with by the Child, Youth and Community Tribunal and so will not be subject to sentencing in Court. However, in the interim period the Department believes that the Courts should have a full range of sentencing powers regardless of the age of the offender to ensure that it is able to impose the most appropriate sentence.

Therefore, it recommends that section 1(1) of the Law should be amended to read as follows (amendment shown in bold type):

*“1. (1) Where a person **aged 14 or over** is convicted of an offence punishable with imprisonment, the court by or before which he is convicted may, instead of dealing with him in any other way make a community service order.”*

3. Resources

The Department believes that the proposals will have no impact on the resources as set out in the Department's earlier report.

4. Conclusion

The Department recommends the States:

1. To agree that the Courts should be enabled to make a community service order in respect of persons aged 14 years or over, where convicted of an offence punishable with imprisonment;
2. To approve the Projet de Loi entitled “The Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006” subject to the deletion of "16" in section 1 (1) and the substitution of “14” therefor.

Yours faithfully

M W Torode
Minister

The States are asked to decide:-

I.- Whether, after consideration of the Report dated 6th November, 2006, of the Home Department, they are of the opinion:-

1. To agree that the Courts should be enabled to make a community service order in respect of persons aged 14 years or over where convicted of an offence punishable with imprisonment
2. To approve the Projet de Loi entitled "The Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006" subject to the deletion of "16" in section 1 (1) and the substitution of "14" therefor, and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto."

PROJET DE LOI

entitled

THE SOCIAL INSURANCE (GUERNSEY) (AMENDMENT) LAW, 2006

The States are asked to decide:-

II.- Whether they are of the opinion to approve the Projet de Loi entitled "The Social Insurance (Guernsey) (Amendment) Law, 2006" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE FOREIGN TAX (RETENTION ARRANGEMENTS)
(GUERNSEY AND ALDERNEY) (AMENDMENT) ORDINANCE, 2006**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled "The Foreign Tax (Retention Arrangements) (Guernsey and Alderney) (Amendment) Ordinance, 2006" 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:-

IV.- To elect a member of the Elizabeth College Board of Directors to fill the vacancy which will arise on 6th January, 2007, by reason of the expiration of the term of office of Mr N L Guillemette, who is not eligible for re-election.

[NB Each year the States elect a Member of the Elizabeth College Board of Directors to serve a six year term. The College Statutes include the provision that: (13) any person having served the office of Director shall not be qualified for re-appointment till after the expiration of twelve months from the time of his going out of office.]

PRIAULX LIBRARY COUNCIL

NEW MEMBER

The States are asked:-

V.- To elect a Member of the Prialux Library Council, who need not be a sitting Member of the States, to fill the vacancy which will arise on 1st January, 2007.

[NB Each year the States elect a Member of the Prialux Library Council to serve for a two-year term. Mr W LeR Robilliard was elected to fill the vacancy which arose on 1st January, 2005. Mr Robilliard was subsequently elected by the States on 26th July, 2006 as a Trustee of the Prialux Library. The Trustees are Members of the Prialux Library Council in their own right.]

HOUSING DEPARTMENT

CORPORATE HOUSING PROGRAMME – PROGRESS AGAINST THE 2006 ACTION PLANS

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

10th October 2006

Dear Sir

EXECUTIVE SUMMARY

1. *This States Report provides details of the significant progress that has been made against the 2006 Corporate Housing Programme (CHP) Action Plans that were approved by the States in December 2005¹.*

In addition, appropriate Action Plans for 2007 have been identified.

INTRODUCTION

2. The Corporate Housing Programme (CHP) was approved by the States in February 2003² as a means of providing a practical framework for implementing the States Housing Strategy (Appendix I), through coordinated action by States' departments, non-governmental organisations, voluntary groups and the private sector.
3. The CHP comprises six Action Areas that, jointly, reflect the diversity of action that is required to meet the States Housing Strategy across a variety of fronts. The objectives of each of these six Action Areas are designed to cut across individual States' departments' mandates and to focus action on meeting those objectives.
4. Each of the six Action Areas has at least one 'lead department' whose role it is to define the specific Action Plans within each action area and to ensure that progress is being made as required. The Housing Department has responsibility for the overall coordination of the Programme, its role being to manage the

¹ Corporate Housing Programme – Progress against the 2005 Action Plan – Billet d'État XXIII 2005.

² The Development of a Housing Strategy and Corporate Housing Programme – Billet d'État II 2003.

priorities within it, and to assist those other groups involved in each Action Area to achieve their stated objectives.

5. The purpose of this States Report is to provide an update on the significant progress that has been made to the CHP during 2006 and to detail the proposed actions for 2007.

REVIEW OF THE 2005 REPORT

6. In its 2005 Report on the CHP³, the Housing Department reported that, with the worsening of the States' financial position, the continuation of the CHP had been placed in some jeopardy.
7. It also reported how, in a separate report to the States in October 2005, the Housing Department had set out a strategy to address this.
8. Specifically, the October 2005 Report⁴ advised the States that the major funding required by the CHP was in respect of:
 - (i) the social housing development programme being undertaken by the Guernsey Housing Association;
 - (ii) the long-term programme for the refurbishment of the States' housing stock.
9. To offset the funding requirements of these major programmes, the Housing Department proposed and the States accepted that:
 - The problem of under-occupation of States' housing would be addressed by means of a widespread programme of tenancy reviews, requiring tenants, sometimes against their will, to relocate to properties suitable to their needs;
 - Surplus and unsuitable 2- and 3-bed properties would be sold off, thereby reducing the size of the States' housing stock by approximately 300 properties, i.e. from approximately 2,100 to 1,800 dwellings;
 - To compensate for this reduction in the States' housing stock, a building programme would be undertaken through the Guernsey Housing Association, to address an identified acute shortage of 1-bed properties;
 - The Department's estate improvements' programme would be continued to prevent more properties becoming unfit;

³ As footnote 1 above.

⁴ Social Housing under the Corporate Housing Programme: Towards a Plan for the Period 2006-2008 – Billet d'État XV 2005.

- The rolling estate improvements' programme would be redirected away from large-scale refurbishment, and instead focus on modernising and improving properties that would be retained.
10. However, the Department made clear that for this to happen funding certainty over a longer term would be needed:
- To enable the Guernsey Housing Association to carry out the new build programme;
 - For the long-term estates improvement programme, to ensure that the Housing Department could continue to provide a core stock of suitably maintained social housing.
11. The Department went on to argue that the most cost-efficient means of providing this necessary finance would include:
- For the Housing Department to receive annually, from General Revenue, the monetary value of rent rebates provided to its tenants;
 - For the funding of rebates for both States and Guernsey Housing Association nominated tenants to be divorced from the main capital allocation to the Corporate Housing Programme Fund, and separately funded;
 - For the proceeds of all sales of surplus and unsuitable States' properties to be re-cycled to help fund the building of suitable replacements by housing associations.

CHANGES IN FUNDING PLANNED FOR 2008

12. The Housing Department is pleased to report that, 12 months on, with the adoption of the above strategy, together with financial commitments that have recently been entered into by the Treasury and Resources Department, the future of the CHP is in a much healthier position than in 2005.
13. The most significant of these commitments is that, in October 2006, the Treasury and Resources Department (as part of its capital prioritisation report) recommended that, from 2008, rent rebates should be refunded as part of the Housing Department's annual **General Revenue** budget. This would apply both to those rebates granted to the Housing Department tenants and to those tenants which the Department had nominated for Guernsey Housing Association tenancies.
14. The Housing Department is quick to acknowledge that this will provide the CHP with the increased funding certainty it was seeking last year. However, it is important that the States appreciate that this refunding of rent rebates will **replace** the annual **capital allocation** to the CHP Fund. In other words, from

2008, the major source of funding for the entire CHP will be this **revenue** allocation.

GENERAL UPDATE

15. With a number of actions being completed during 2006, Housing and the other lead departments are now in a position to consider and set new priorities that will form a strategic plan for the CHP over the next 3 to 5 years.
16. Therefore, it is our intention to consult with the other lead departments in the first half of 2007 with a view to bringing forward further workstreams.
17. With the appropriate financial and resource allocations that now look likely to be in place, the Department is confident that these work areas can be successfully progressed. Nevertheless, it is essential that these actions are prioritised so that resources are directed towards those that have the most potential to impact positively on the States Housing Strategy.

DETAILED UPDATE ON PROGRESS AND ACTION PLANS

18. This section provides an update on what has been accomplished during 2006.
19. In addition, appropriate actions for 2007 have been identified.

ACTION AREA A – FISCAL POLICY

Lead Department – Treasury and Resources Department

Objective:

To present the States with a comprehensive review of the fiscal policy options available to support the objectives of the Housing Strategy.

2006 Action Plan:

20. For the Treasury and Resources Department to consider and identify the impact of the Corporate Tax Strategy, and other fiscal measures, on the operation of the Guernsey housing market.

For the Treasury and Resources Department to consider and identify the impact of the interest tax relief proposals in the Corporate Tax Strategy on the operation of the Guernsey housing market.

Progress:

As part of the Future Economic and Taxation Strategy a number of important decisions were made concerning this area.

In particular, it was agreed that: a) tax on property (i.e. Tax on Rateable Value - TRV) should be increased; and b) mortgage interest tax relief (MITR) should only continue to be provided on principal private residences.

The Policy Council expressed the view that the maximum value of mortgages qualifying for MITR should not exceed £400,000. However, following consultation with the Housing Department, the exact details, including the final value, will be decided by the States as part of the normal annual Budget process.

2007 Action Plan:

For the Treasury and Resources Department to recommend details of the rates of TRV and MITR in the 2007 and 2008 Budget Reports.

2006 Action Plan:

21. For the Treasury and Resources Department to consider and identify the impact of new TRV proposals on the operation of the Guernsey housing market.

Progress:

The Treasury and Resources Department has already brought forward two States Reports on this matter and obtained endorsement for a set of high level principles for a new system of tax on real property (TRP). The new system will be more transparent and administratively simpler, and better reflects the 21st Century position.

After another period of consultation, the Treasury and Resources Department will be bringing forward a States Report in 2007 which sets out its detailed proposals. One of the detailed proposals is likely to be that public property, including social rented housing, will be zero rated for TRP purposes.

2007 Action Plan:

For the Treasury and Resources Department to report to the States with details of new TRP proposals.

ACTION AREA B – LAND USE POLICY AND HOUSING DEVELOPMENT

Lead Departments – Environment Department and Housing Department

Objective:

To integrate land use planning policies which provide for sufficient housing to be created to meet strategic targets, with a range of measures to ensure that those housing opportunities are translated into development which meets the profile of

local needs.

2006 Action Plan:

22. For the Environment Department to continue work to implement the new Planning Law.

Progress:

The Land Planning and Development (Guernsey) Law, 2005 has received Royal Assent. However, the Law cannot be implemented until the essential Ordinances are also approved by the States. Consultation on the Ordinances will be complete by the end of 2006 and the Law and Ordinances will be presented together to the States for approval as soon as possible after that.

2007 Action Plan:

For the Environment Department to continue work to implement the new Planning Law.

2006 Action Plan:

23. For the Housing and Environment Departments jointly to present to the States the findings of the study into Planning Agreements.

Progress:

The study by Environmental Resources Management into the potential use of planning agreements has been completed and the report of findings has been considered by the boards of both departments.

This will be linked with the outcomes from the Housing Needs Survey (see paragraph 24 below) and a joint report presented to the States in the first half of 2007.

2007 Action Plan:

For the Housing and Environment Departments jointly to present to the States the findings of the study into Planning Agreements.

2006 Action Plan:

24. For the Treasury and Resources, Housing and Environment Departments, to begin to take steps to implement the States' decisions arising from consideration of the Environment Department's report on the outcome of the Belgrave Vinery Planning Inquiry.

Progress:

The States resolved on 25 January 2006:

“To direct the Housing Department to report to the States, as part of the Corporate Housing Programme Action Plans for 2007, on the need to release land for development at the Belgrave Vinery Housing Target Area, having regard to:

- (a) the results of the Housing Needs Survey, to be reported to the States in 2006; and*
- (b) the report to be presented jointly by the Environment and Housing Departments on the use of Planning Agreements to provide social and/or intermediate market housing.*

To agree that no work be undertaken on the preparation of a detailed master plan or implementation plan for the Belgrave Vinery Housing Target Area, unless so provided by the Corporate Housing Programme Action Plans for 2007 or succeeding years.”

The full Housing Needs Survey results will not be available until the end of 2006; therefore, it will not be possible to ascertain when it will be necessary to release this Housing Target Area until that information has been analysed.

2007 Action Plan:

Having regard to the results of the Housing Needs Survey and the report on the use of Planning Agreements, for the Housing Department to determine the need to release land for development at the Belgrave Vinery and the other Housing Target Area and report to the States in 2007 with its findings.

ACTION AREA C – INTERMEDIATE HOUSING MARKET**Lead Department – Housing Department****Objective:**

To develop policies aimed at providing for the varied needs of the Intermediate Housing Market and to work with other agencies to ensure that there is sufficient provision of affordable housing to meet the reasonable needs of that market.

2006 Action Plan:

- 25. To present to the States an outline Action Plan to address the issues affecting the private rental sector.

Progress:

The Housing Department has been successful in facilitating the formation of a Private Landlords' Forum to address issues affecting the private rental sector. This has overridden the need for an action plan to address these issues.

Whilst the Department provided limited funding and administrative support to initially assist the Forum, it will become self-sufficient during 2007 by asking for a fee to be paid by its Members.

Key priorities for the Landlords' Forum during 2007 will be: (i) to formulate and introduce a common tenancy agreement; and (ii) to encourage the adoption of minimum standards for accommodation in this sector.

The Housing Department and the Health and Social Services Department's Environmental Health Officers will continue to work closely with the Landlords' Forum to move forward measures to ensure that standards in the private rented sector are improved. It is hoped that this will be achieved without the need for statutory regulations. Indeed, there is evidence that this sector has started to regulate itself, as changes in the market have brought increased competition that has forced landlords to improve the condition of their properties in order to secure a letting.

Concerns have, however, been raised regarding the standard of some lodging houses and staff accommodation in the Island. It is intended therefore that Housing and Health and Social Services will jointly explore with other interested parties how this can be addressed. Options to be considered may include the introduction of minimum standards or a licensing system for such properties.

2007 Action Plan:

For the Housing Department to continue to work with the Landlords' Forum to progress initiatives that help to improve the standards of accommodation in the private rental sector, including the adoption of a common tenancy agreement.

For the Housing Department to coordinate an investigation into the issues surrounding the condition of some lodging houses and staff accommodation.

2006 Action Plan:

26. For the Guernsey Housing Association:

- (i) To finalise the detailed administrative rules for the Partial Ownership scheme;
- (ii) To make available the first units for sale on a partial ownership basis.

Progress:

The Guernsey Housing Association has, in conjunction with the Housing Department and their respective legal advisors, finalised the detailed administrative rules for the Partial Ownership scheme.

Ten properties at the Association's Roseville development have been made available for partial ownership purchase to pilot this scheme. The prospective purchasers are all existing States' tenants. This will release 10 units of States' accommodation that will be allocated to priority applicants from the waiting list. It is anticipated that all of the partial ownership sales will be completed by the end of November 2006.

There has been considerable interest in this new housing option. The Housing Department and Guernsey Housing Association will work jointly to develop the scheme with the aim of making it available on all future Guernsey Housing Association developments.

2007 Action Plan:

For the Housing Department, jointly with the Guernsey Housing Association: (i) to review the pilot Partial Ownership scheme at Roseville; and (ii) to use the outcomes of this review to incorporate suitable units for partial ownership in future development proposals.

2006 Action Plan:

27. For the Housing and Health and Social Services Department to produce a green paper on key worker housing and related issues for consideration by the States.

Progress:

The Key Working Housing Group was established at staff level to investigate a wide range of interrelated policy areas that are relevant to the recruitment and retention of key workers. The Group comprises of senior staff of the Housing, Health and Social Services, Home, Education and Environment Departments, and the Public Sector Remuneration Committee.

The Group has invested much of its time in the acquisition of reliable and accurate data on which to base its recommendations. This data has enabled the Group to consider the issues surrounding key worker recruitment, retention and accommodation, and possible options for resolving these difficulties. These issues are being outlined in a report of the Working Group, which, at the time of writing, was in the process of being finalised.

It is intended that a green paper summarising the findings of the Working Group

will be presented to the States in the first quarter of 2007. It is expected that the green paper will recommend a number of initiatives that will provide the framework for an integrated corporate strategy to address key worker recruitment and retention, and will identify changes in policy that could bring significant long-term revenue and capital savings.

2007 Action Plan:

For the Housing and Health and Social Services Departments to present a green paper on key worker housing and related issues for consideration by the States.

2006 Action Plan:

28. For the Housing Department to report back to the States with a detailed social housing development plan to address the issues covered in its October 2005 Report.

Progress:

The Housing Department has made considerable progress this year in preparing a detailed five-year development plan that will address all of the issues identified in the report that was presented to the States in October 2005.

In anticipation of the increased funding certainty that will be given by Treasury and Resources' proposals to refund rent rebates, the Department can now work with the Guernsey Housing Association to agree and fund a building programme that will facilitate the redevelopment of the Grand Bouet Estate, and other smaller States' housing estates that have reached the end of their economic life.

2007 Action Plan:

For the Housing Department to report back to the States with a detailed social housing development plan to address the issues covered in its October 2005 States Report.

2006 Action Plan:

29. For the Housing Department to arrange for the sale of 14 incompatible States' houses.

Progress

During 2006, a programme of re-housing the tenants of those incompatible properties that remained occupied has resulted in the majority of these properties now becoming available for sale. Of those that remain tenanted, the occupants' eligibility for alternative accommodation has, where appropriate, been confirmed. They will be re-housed in the near future.

To date two properties have been sold, with the gross proceeds from the sales totalling £534,000. These receipts will be used to provide grant funding for the development of new homes by the Guernsey Housing Association.

As part of the ongoing commitment to rationalise the housing stock, a further seven incompatible properties have been identified by the Department. (These include Clairval House – see paragraph 35 below.) In each case, considerable expenditure would make it uneconomic to refurbish them for continued occupation as social rented housing.

It is intended to market all 19 properties as they become vacant in the future, using the proceeds to grant fund replacement social housing to be provided by the Guernsey Housing Association.

2007 Action Plan:

For the Housing Department to continue to identify and sell incompatible States' houses.

2006 Action Plan:

30. For the Housing Department to arrange for the sale of the Petit Bouet and Baubigny estates (as agreed by the States in October 2005).

Progress:

In order to be able to gain the best market value for the Petit Bouet Estate, the Environment Department have agreed to undertake a Development Brief. Once this has been received, the Housing Department will be in a better position to consider the best disposal method for this estate.

All of the six properties at the Baubigny Estate have now been vacated.

The properties have now been marketed and the sales receipts will be used to fund future social housing developments.

2007 Action Plan:

For the Housing Department to examine options for the disposal of the Petit Bouet Estate.

For the Housing Department to conclude the sale of the six incompatible properties on the Baubigny Estate.

2006 Action Plan:

31. For the Housing Department to finalise proposals for the demolition and redevelopment of the Victoria Avenue estate (as agreed by the States in October 2005).

Progress:

The Victoria Avenue Estate has now been vacated in readiness for redevelopment by Guernsey Housing Association.

A Development Brief for this site is currently being prepared by the Environment Department and full planning permission is expected to be obtained by the end of 2006.

Agreement has been reached with the Guernsey Housing Association to build approximately 70 units of one-bedroom accommodation designed to address the under-occupation of the larger family size units of States' accommodation.

It is expected that the States' contribution to the development costs will be less than 30%.

It is envisaged that works will commence on site in the middle of 2007, with completion in 2008.

2007 Action Plan:

For the Guernsey Housing Association to commence the redevelopment of the Victoria Avenue Estate.

2006 Action Plan:

32. For the Guernsey Housing Association to complete the development of the Roseville site.

Progress:

The Guernsey Housing Association completed the development of Roseville, and in July 2006 the first units became ready for occupation.

This development has provided 36 units of accommodation, with a mix of 1-, 2-, 3- and 4-bedroomed units, all of which have underground car parking facilities. Ten of these properties have been offered under the Guernsey Housing Association's Partial Ownership scheme.

A number of States' tenants have been offered accommodation at Roseville, which is beginning to free up properties in other areas. This has provided the

Housing Department with the opportunity to take forward its policy of addressing under-occupation to ensure that people are housed in accommodation that is appropriate for their needs.

2007 Action Plan:

No action.

2006 Action Plan:

- 33 To complete discussions with the Environment Department to ensure that the most effective use is made of the Old Coach Station site and, thereafter, for the Guernsey Housing Association to commence its development.

Progress:

The Guernsey Housing Association has submitted a planning application to build 75 one- and two-bedroom units of social housing on this site.

It is anticipated that at least 40% of these units will be available for sale under the Partial Ownership scheme.

It is planned that development works will commence in 2007, with the final phase being completed in 2009.

2007 Action Plan:

For the Guernsey Housing Association to work with the Housing Department to finalise proposals for the Old Coach Station site, with a view to development works commencing in 2007.

2006 Action Plan:

34. For the Guernsey Housing Association to complete the development of the La Chaumiere site.

Progress:

The Guernsey Housing Association completed the development of the La Chaumiere site in June 2006.

Ten one-bedroom flats have been provided, including 2 flats specifically designed for disabled persons.

2007 Action Plan:

No action.

2006 Action Plan:

35. Either: (a) for the Guernsey Housing Association to commence redevelopment;
or (b) for the Housing Department to sell Clairval House.

Progress:

Clairval House is registered in the Ancient Monuments and Protected Buildings Register and, consequently, any development of the property is required to meet stringent standards.

Following a feasibility study, the Guernsey Housing Association reported that it was uneconomical for Clairval House to be refurbished. The property has, therefore, been included on the Housing Department's list of incompatible properties for sale.

2007 Action Plan:

For the Housing Department to dispose of Clairval House.

ACTION AREA D – STATES-OWNED STOCK

Lead Department – Housing Department

Objective:

To maintain and improve the quality of States-owned housing stock, and to provide high quality tenancy services to the occupiers of those dwellings in order to foster communities that are pleasant and safe to live in.

2006 Action Plan:

36. For the Housing Department to carry out the annual review of the Rent and Rebate Scheme.

Progress:

Rents and rebates were duly reviewed earlier this year, and tenants notified of the changes.

The Housing Department has commenced its annual review of the Rent and Rebate Scheme for 2007.

Consideration is being given to changing the date of implementation of rent and rebate changes to be consistent with the States' January to December accounting period.

In addition, during 2007 the Housing Department is planning to review the reinstatement valuations of its properties, which form the core element in the rent setting formula, to assist with rent setting in 2008.

2007 Action Plan:

For the Housing Department to carry out the annual review of the Rent and Rebate Scheme and associated actions.

2006 Action Plan:

37. For the Housing Department to implement the tenancy review policy to support the process of rationalising the States' housing stock.

Progress:

The Housing Department has implemented the tenancy review policy to support the process of rationalising States' housing stock. As a result a number of properties have been freed up and made available to applicants from the waiting list.

The review of tenancies' process will continue during 2007 as the Department strives to ensure that States' accommodation continues to be occupied only by those with appropriate needs.

2007 Action Plan:

For the Housing Department to continue to implement the tenancy review policy to support the process of rationalising the States' housing stock.

2006 Action Plan:

38. For the Housing Department to implement its new Rent Arrears Strategy.

Progress:

A new strategy has been implemented and the Department has continued its success in reducing rent arrears, despite the fact that the gross rents increased in May 2006.

As at 30 September 2006, rents owing to the Department were £330,702⁵. This has reduced from £388,350 as at the end of September 2005 and from £483,377 in 2004.

⁵ For details of the type of tenants in arrears see: Proposals for a New States Rent and Rebate Scheme – Appendix 6 - Billet d'État XX 2004.

2007 Action Plan:

For the Housing Department to make continued efforts to reduce the level of rents that it is owed.

2006 Action Plan:

39. Insofar as funding allows, for the Housing Department to continue the long-term estates improvement programme for States' houses.

Progress:General

- . Over recent years, the Housing Department has worked in partnership with RG Falla and the former Guernsey Technical Services to deliver an improvement programme to refurbish the States' housing stock.
- . The programme of full refurbishment of the Department's older stock that commenced in 2002 will be completed in 2006: a total of 117 properties have, thus far, benefited from this programme.

In 2007, the focus will switch to a rolling programme of modernisation for the remainder of the housing stock. With the benefit of the greater financial certainty given by Treasury and Resources' proposal to refund the Department the value of its rent rebates, it is the Department's intention to issue a contract under the 'partnering' arrangement to install central heating and upgrade insulation, this programme to be completed over a period of 3 years.

The economies of scale of bulk purchasing materials necessary to undertake this programme will result in considerable savings on the overall cost. It will also bring considerable energy saving benefits and reduce the costs of States' tenants' fuel bills.

Electrical Rewiring/Upgrading

An electrical rewiring and upgrading programme was introduced in November 2003. At the time of writing, 307 properties have undergone full rewiring and 120 properties have had an electrical upgrade through this programme. Phase I of the programme has, therefore, been completed, with works being carried out to those highest priority properties most in need of electrical rewiring. Phase II will commence in 2007.

Guernsey Electricity is continuing to upgrade the electricity supply to the Department's estates, with three sites in 2006 having works carried out to their mains supply, including additional substations where necessary. There is an

ongoing commitment to assess and identify the electricity needs of estates as required.

Estate Enhancements

Work has continued to progress on the estate enhancement programme. This work is aimed at improving access for emergency service vehicles, whilst easing congestion: work at Les Genats Estate, Rue Jehannet and Rougeval has all been completed.

Further schemes are currently being planned for Collings Road and Sandy Hook Estate.

These enhancements will, however, continue to be subject to available funding and the prioritisation of the other estate improvement workstreams.

Drainage

Significant drainage works have also been completed on those estates that have been part of the refurbishment programme.

A project to renew and upgrade the drainage to Les Genats Estate will commence at the end of 2006/beginning of 2007.

Re-Roofing

In addition to the re-roofing of those properties that have been fully refurbished, houses on the three Rectory Hill Estates have been re-roofed.

Work is currently in progress on the Millbrook and Pont Valliant Estates and will continue into 2007.

A scheme is being prepared for the Chemin de Mont Estate, and surveys are being carried out to establish the next priorities.

2007 Action Plan:

For the Housing Department to continue the long-term estates improvement programme for States' houses.

ACTION AREA E – SUPPORTED HOUSING PROVISION

Lead Department – Housing Department

Objective:

To develop appropriate options for persons requiring supported accommodation, which may include older persons, young people, people with a learning

disability, persons with a mental illness, ex-offenders etc.

2006 Action Plan:

40. For Housing 21 Guernsey Limited (H21GL) and Rosaire Sheltered Housing Limited (RSHL) to continue development of the Rosaire Avenue site.

For the Housing and Health and Social Services Departments to work with H21GL to identify potential residents of the Scheme and develop a waiting list.

Progress:

The development of the former Girls' Grammar School site at Rosaire Avenue for sheltered housing with an 'extra care' facility has progressed ahead of schedule and is due for completion at the end of 2006.

There are a total of 85 units on the site, split into three types:

- 50 Rental Units owned by H21GL, which are to be let to tenants nominated by the Housing Department, working in conjunction with the Health and Social Services Department ;
- 9 Lifetime Lease Units to be sold by RSHL;
- 26 Freehold Units also to be sold by RSHL.

The Housing Department has been working closely with the Health and Social Services Department and Housing 21 to form an Allocations Panel to evaluate potential applicants for the 'extra care' aspects of this development. It is envisaged that the first prospective tenants will be identified and offered accommodation by November 2006, and that these units will be occupied in the first quarter of 2007.

The continuing management of this accommodation will be an ongoing issue for the Housing and Health and Social Services Departments and Housing 21 with regard to the allocation policy for these units.

2007 Action Plan:

For the Housing Department, Health and Social Services Department and H21GL to continue to identify and offer tenancies for the 'extra care' units in the first quarter of 2007.

2006 Action Plan:

41. For the Housing and Health and Social Services Departments to continue to support the development of, and grant fund, the NCH Youth Housing Project.

Progress:

The Housing Department has continued to support the NCH Guernsey Youth Housing Project by providing a grant to the NCH for the operating costs of the seven training bedsits at 17 Havilland Street, plus their other services based in St. James Street.

The ongoing provision of this grant will enable the Project to continue to meet the needs of those young people, primarily aged between 16 and 21, who are without family support and at risk of homelessness, unemployment and social exclusion.

2007 Action Plan:

For the Housing and Health and Social Services Departments to continue to support the development of, and grant fund, the NCH Youth Housing Project.

ACTION AREA F – INFORMATION

Lead Department – Policy Council (Policy and Research Unit)

Objective:

To establish an authoritative system for collating information about housing in order to monitor and review the effectiveness of the Corporate Housing Programme against strategic objectives.

2006 Action Plan:

42. For the Housing Department to carry out a Housing Needs Survey.

Progress:

The second survey of Islanders' housing needs was undertaken by Opinion Research Services (ORS) in May/June 2006: (i) to monitor the success of the States Housing Strategy/CHP over the period since the first Survey, undertaken in 2000/1; and (ii) to provide key information to assist with the identification and formation of new policies and CHP workstreams for the next five years.

The first results of the survey were received from ORS in October 2006. A report on the main findings will be presented to the States in the first half of 2007.

2007 Action Plan:

For the Housing Department to present a report to the States on the findings of the Housing Needs Survey in the first half of 2007.

2006 Action Plan:

43. For the Policy Council (Policy and Research Unit) to progress the project to collect and report on key housing data to permit monitoring of the outcomes of the CHP.

Progress:

Building on the outcomes of the report produced by the Policy and Research Unit (P&RU) in the autumn of 2005, the following has been undertaken:

- In February 2006, staff from the P&RU held a workshop on data accessibility and quality which was attended by staff from most States' departments. The purpose was to identify issues over data collection, to highlight good practice, and to improve data quality, focusing on corporate information. This included housing-related statistics.
- At a detailed level, staff from the P&RU have liaised with representatives from the Income Tax Office to extract data from their computer systems and identify better accessibility. Improved statistics have already helped with the monitoring of housing affordability. This is an on-going workstream.
- In the spring of 2006, several discussions were undertaken with the Treasury and Resources Department and the Director of Information and Communications Technology (ICT) to include elements of the CHP monitoring work into the Government's ICT Strategy. The main focus was on including potential data capture, maintenance and reporting procedures. Further development is required to ensure, where possible, that data are collected and stored electronically in a consistent and accessible way by departments.

2007 Action Plan:

For the P&RU staff to continue to liaise with the ICT Department and identify technical solutions to the storage, maintenance and extraction of housing-related data, ensuring it is included in the ICT Strategy.

For the P&RU and ICT staff to hold discussions with each department holding housing-related statistics to identify any business needs for specific resource requirements in the short- and longer term for the storage, maintenance and extraction of housing-related data.

For the P&RU to devise a template for filling the data gaps and, where possible, build into existing departmental procedures regular data collection and quality control.

For the P&RU and the Housing Department to incorporate the results of the Housing

Needs Survey into the monitoring process, including producing a headline monitoring report from the available data.

CONCLUSION

44. The above commentary provides evidence of the ongoing progress that has been made in furthering the priorities of the CHP. A number of initiatives have been completed during the year as a result of the coordinated approach that is being taken to address the Island's housing needs.
45. The proposals recently put forward by Treasury and Resources with regard to the refunding of rent rebates will give the CHP a further boost, by providing the Housing Department with the financial certainty that it sought last year to progress the Programme and to build on the considerable achievements that have already been attained to deliver the Island's housing strategy.
46. In particular, in recent years, the Island's social housing provision has been significantly improved through the Housing Department's partnership working with the Guernsey Housing Association. Not only have many new dwellings been built, but they have been provided at progressively lower cost to the taxpayer, thereby ensuring that monies are available for other States' capital projects.
47. Nevertheless, it is appropriate to conclude this report with a word of caution: it is tempting to think that because of the activity of the past few years the Island's housing problems have been consigned to history. However, this would be to misunderstand fundamentally how housing markets operate. It is, therefore, important to restate that in the absence of concerted and sustained action, housing will quickly return to the centre stage as an important political and community issue affecting all strata of society.
48. Housing - and thus the CHP - must, therefore, remain high on the political agenda to avoid the recurrent housing crises that have so bedevilled the Island at regular intervals since the end of World War II.

RECOMMENDATIONS

49. The Housing Department recommends the States to approve the 2007 Action Plans for the six action areas of the Corporate Housing Programme, as set out in this Report.

Yours faithfully

D Jones
Minister

APPENDIX I

STATES HOUSING STRATEGY

- To ensure that all persons legally resident in Guernsey have access to housing accommodation to meet their reasonable needs.
- To meet housing needs in a sustainable manner in the long-term interests of the community as a whole, making prudent use of all resources and recognising that investment in housing must be prioritised and compatible with strategic policies and the wider programme of public expenditure approved by the States.
- To ensure that there are measures in place to limit any growth in population through immigration in order to manage housing demand in accordance with the principles of sustainability.
- To provide the community with a range of housing options, acknowledging that while home ownership has historically been the preferred means of meeting housing needs, good quality, fairly priced housing may be provided across the housing market by other means and through a variety or mix of agencies – public, private and voluntary.
- To enable housing to be provided for those financially unable to enter the private housing market, either to purchase or rent, through a range of housing measures attuned to meeting their specific housing needs including social rented housing, partial ownership schemes etc.
- To enable the provision of supported accommodation for persons with special needs including accommodation for older persons, young people, people with a learning disability, persons with a mental illness, ex-offenders etc.
- To maintain and improve the quality of housing in Guernsey across all sectors bearing in mind the impact of housing conditions on the health and well-being of the community.

(NB The Policy Council supports the proposals.)

(NB The Treasury and Resources Department supports the proposals)

The States are asked to decide:-

VI.- Whether, after consideration of the Report dated 10th October, 2006, of the Housing Department, they are of the opinion:-

To approve the 2007 Action Plans for the six action areas of the Corporate Housing Programme, as set out in that Report.

HEALTH AND SOCIAL SERVICES DEPARTMENT

ELECTRONIC HEALTH AND SOCIAL CARE RECORD (EHSCR)

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

13th October 2006

Dear Sir

Note: In this report, reference is made to 'service user(s)'. This term covers all patient, clients and others who receive services from the Health and Social Services Department.

Executive Summary

1. This report seeks to secure States' support and funding for a major project, which will significantly improve the way clinical care is delivered in Guernsey, whilst also yielding much improved health and social care information to support operational management, the quality of clinical services and the strategic planning of future health and social care delivery.
2. The introduction of an electronic health and social care record (EHSCR) represents a major programme of business change and IT modernisation, which will potentially impact on almost every facet of health and social care delivery, whether provided by Health and Social Services Department (HSSD) staff, by clinicians working under contract, or in the private sector.
3. Well managed, well maintained and readily accessible care records underpin effective clinical care. Traditionally, these have been handwritten, by the attending clinician, and were frequently specific to a particular department or location.
4. Increasingly, however, health and social care is now delivered by multi-professional teams, in a variety of settings, with greater service user involvement, and is more open to medico-legal challenge, whilst the care given is both more sophisticated and more complex.
5. Consequently, care records have grown in size and complexity, sometimes reaching three or more large volumes. Portions of the record are also currently

stored in over thirty different locations around the island, with separate records also maintained by the Medical Specialist Group (MSG) and amongst primary care practices.

6. Continuing growth in the numbers, size and complexity of the paper record is obviously unsustainable. In addition, such growth and fragmentation leads to the real danger that important clinical information may be missed or lost.
7. The department's existing health IT system, which provides demographic data, appointment and limited health and social care information is now outdated and obsolete. Indeed, the system's supplier is withdrawing from the health care IT market, and has informed the department that maintenance will become increasingly expensive, before ceasing all together within the next few years. The department's Child Information Database is also now outdated. Other hospitals that are using the same system are also having to go through this process and change to another supplier.
8. Replacement, on a 'like-for-like' basis, is no longer possible and, in any case, would not provide any of the advances and advantages which current health and social care information technology now offers.

These include:

- better integration of health care information across HSSD, MSG and primary care providers, helping ensure that essential clinical information is available wherever and whenever is it needed;
- the opportunity to integrate children's and social care information needs into the HSSD's overall system to give a more complete record of care;
- better control of access to sensitive portions of the record, giving service users greater confidence in the confidentiality and security of their health and social care records;
- making the collection of '*secondary use*' health and social care data (essential for operational management, clinical quality assurance and strategic planning) part of the day-to-day clinical process, thus improving the management, appropriateness and accountability of health and social care delivery;
- improving the delivery of clinical care through the ready availability of clinical algorithms, integrated care pathways, drug interactions, etc;
- the potential to interface with the UK NHS '*Connecting for Health*' project, allowing essential clinical information to 'follow the service user', whether treated in Guernsey or in the UK;
- greater service user involvement in planning their own care package, giving informed consent;

- progressively offering opportunities for reducing the number of clerical and administrative staff required to service an increasingly complex and voluminous paper record.
9. The total cost of developing and maintaining an integrated, island wide, health and social care record is approximately £9.7m in capital and revenue over a 10 year period and the department has calculated and satisfied the Treasury and Resources Department that this will be self-funding.

Background

10. Some 15-25 years after most financial institutions and successful businesses moved to a widespread utilisation of information technology, many working outside the health sector express surprise that health and social care, especially in secondary and tertiary institutions, still relies heavily on the paper-based record. The primary care practices in Guernsey have, however, been using computerised service user records for a number of years.
11. Guernsey invested in an electronic '*Service user Administration System*' (PAS) in 1991. The system itself first came to the market some 25 years ago. PAS provides a service user demographic database with basic booking and coding facilities. It does not provide records of service user treatment.
12. The system also supports the following services:
- Maternity
 - Operating Theatres
 - Accident and Emergency
 - Waiting List
 - Out-service users
 - In-service users
 - Pharmacy stock and financial control
13. Also linked to the PAS system are:
- the Radiology Information System (RIS), which provides service user registration details, appointment booking and information on radiology workload;
 - the radiology Picture Archiving and Communications System (PACS), which produces a digital image of a service user investigation, replacing the traditional x-ray film. This digital image can then be forwarded to wards, theatres and out-service user clinics for viewing on computer screens;

- the pathology laboratory computer system provides an interface with all of the analysers, facilitating rapid inputting and processing of samples and production of results. It also allows communication, via a secure internet connection, between the pathology department and clinicians on the Island;
 - the States Systems Applications and Protocols system (SAP), which relates to procurement, financial management, plant maintenance and payroll.
14. The PAS system and associated support modules, (as detailed in paragraphs 11 and 12) were developed by the previous UK NHS South West Regional Information Systems Division (SWiFT). SWiFT has since been taken over by Electronic Data Systems (EDS).
 15. In addition, there is a child health system, supported by software supplier McKesson, which provides child registration details, appointment booking and information on workload, immunisation and developmental screening.
 16. EDS were not one of the successful tenderers for the UK NHS '*Connecting for Health*' project and have since announced that they intend to withdraw from the health care information technology field. Therefore, as their customer base shrinks over the next few years, technical support to the department will only be available at a much increased cost (e.g. the department has been advised that 2007 maintenance charges will rise by 29%), but the service will eventually cease altogether.
 17. Because of developments in information technology generally and particularly in health informatics, over the past twenty five years, it is no longer possible, or appropriate, to replace 'like with like'. Instead, the concept has moved to a total 'electronic health and social care record' holding data about all aspects of clinical and social care.
 18. Following the Machinery of Government reforms, Guernsey now has an integrated Health and Social Services Department and, therefore, such a record must also be able to hold comparable information from social care providers, if service users are to benefit fully from the integrated services.

What is an 'Electronic Health and Social Care Record'?

19. An EHSCR is a way of utilising available information technology to combine most of the existing health and social care records of a service user into an integrated common record with appropriate security.
20. The main difference between an EHSCR and the current PAS system is that it will also record clinical information and entries made by health and social care workers, rather than being a largely administrative system, as at present.
21. However, an integrated EHSCR offers far more than merely recording electronically what is currently documented in paper records.

22. It would also provide regularly updated clinical and social care information to help in making decisions in the clinic, at the bedside or in the home, and be able to generate timely consultation notes and discharge summaries to ensure that primary care practitioners and community based staff would have the most recent information necessary for effective continuing care.
23. Developments in information technology mean that the EHSCR would be able to interface with existing departmental computer systems, including the pathology, radiology and picture archiving systems, giving 'real time', access to diagnostic investigations.
24. This combined record can also be expanded through development of electronic systems to include new areas of care delivery. For example, through an electronic pharmacy system, which is included in the price of the proposal, medical staff can prescribe drugs, check service users' allergies and sensitivities to certain medications and receive advice on the correct dosage and frequency, thus reducing medication errors. Such a system has already been implemented, in part, in the UK NHS, where service users are now benefiting from safer medicines management in consequence.
25. Health and social care information is also required for operational management, for ensuring the quality of services provided is acceptable, to review existing services to ensure they best meet current need and for the strategic development of future services to meet the changing health and social care needs of the community. These ancillary benefits are known collectively as the '*secondary uses of health and social care data*'.
26. The advantage of an integrated health and social care record is that such secondary data is captured as a by-product of the day-to-day documentation of clinical and social care given by those providing that care. Institutions, both in Britain and overseas, who have successfully implemented an integrated electronic health and social care record, have found that there are significant savings in administrative staff costs as a result of this. The department has developed a business case which demonstrates how these efficiencies and savings can be made.
27. Attempting to run a modern health and social care system without real time access to such secondary data would be akin to attempting to run a large modern business without real time access to financial information or stock control and would result in considerable loss in terms of both clinical efficiency and cost effectiveness.

What is Proposed?

28. The strategic aims of the EHSCR project are to provide:

- a live interactive care record service, accessible 24 hours a day, 7 days a week, by health and social care professionals;
- links with the MSG, primary care practices and the Social Security Department to provide, where appropriate, an integrated care record and associated administrative information;
- a life-long care record for each service user, which will cross the boundaries of traditional care organisations and clinical specialities;
- specific clinical applications in the following areas that would also contribute to the care record:
 - radiology, pathology, pharmacy;
 - hospital based systems - theatres, ICU, A & E, wards;
 - hospital and community based systems – maternity, paediatrics, psychiatry, elderly care, psychology, community mental health/child and adolescent mental health/community elderly care, physiotherapy, dietetics;
 - community based systems – district & community nursing, health visiting, residential & nursing homes, social work, speech & language therapy, occupational therapy, children’s dental service;
 - out-service user based systems providing links between the Department, GPs and the MSG;
- appropriate information and/or decision support systems to clinical applications, which reflect best practice, e.g. the UK National Institute for Health and Clinical Excellence (NICE) guidelines and integrated care pathways;
- security standards to protect the privacy of service users and the interests of those providing care, in accordance with data protection, human rights legislation, Caldicott principles and professional ethics. (The Caldicott principles on access to service user identifiable information are considered in more detail under ‘Security and Confidentiality’ in paragraphs 34-42 below);
- within the electronic prescribing programme, electronic transmission of prescriptions, from prescribers to community pharmacists and to the Prescription Pricing Authority in the UK, which is used by the Social Security Department;
- electronic appointment systems in relation to out-service users, investigative services and elective admissions;
- the facility for electronic requesting and reporting of clinical investigation services, e.g. radiology and pathology;

- information gathered in the course of health and social care provision which is timely, accurate, validated and suitable for secondary use, including operational management, clinical governance, appraisal, benchmarking against care delivered in other jurisdictions, strategic planning and other related activities.
29. The cost of replacing the current systems relating to the PAS, accident and emergency, operating theatre, maternity, pharmacy and child health modules is estimated at just under £5m (made up of supplier costs of approximately £3.2m and the department's implementation costs estimated at around £1.5m).
30. The cost of purchasing a full EHSCR, with additional modules for mental health and community services, will be approximately £9.7m over the 10 year life of the contract (of which just over £6m will be required in respect of main supplier costs). Capital costs will be approximately £3.9m, with the balance, in terms of maintenance and the department's implementation costs, funded from revenue.
31. The financial consequences of implementing a full EHSCR can be met, through the ten year life of the project, from savings generated through staff reductions and other cost saving measures. The principal savings can be identified as follows:
- | | £m |
|--|--------|
| Tighter drug control: | £0.45 |
| Savings on current service contracts: | £3.50 |
| Improved capture of service user billing data: | £0.85 |
| Paper supply: | £0.25 |
| Improved IT integration: | £0.60 |
| Staff savings: | £4.00 |
| Total | £9.65m |
32. A limited replacement would not offer the opportunities to make all these savings.
33. It is anticipated that doctors, nurses and other professionals recruited from other health and social care organisations which have implemented electronic records, will increasingly expect that comparable systems, with the attendant benefits, will be available in Guernsey and Alderney.

Security and confidentiality

34. Health and social care today is rarely provided by a single practitioner but increasingly by multi-professional teams including doctors, nurses, other health and social care professionals, clerical, administrative and support staff. Concern about appropriate access to confidential clinical information led to the establishment within the UK of a committee, chaired by Dame Fiona Caldicott, which published '*A Review of Service user Identifiable Information*' in December 1997.

35. The report proposed six principles to cover access to confidential information about individuals (the so called '*Caldicott principles*'), and recommended the appointment of a 'Caldicott Guardian' in all UK NHS institutions to ensure that such safeguards were followed in practice.
36. Although the Caldicott report was concerned with health care data, the same principles are equally applicable to social services.
37. The department has had its own '*Caldicott Committee*' since 2000, which attempts to ensure that it maintains appropriate levels of confidentiality and data security. An EHSCR offers the opportunity to formalise such confidentiality arrangements by applying accepted '*Caldicott principles*' to access to information.
38. In summary, only staff involved in the direct care of a particular service user would be allowed access to that record, and then only on a '*need to know*' basis, with the minimum data required for that purpose.
39. It is likely that access would be restricted by dual control, akin to 'chip and pin', with a card necessary to log on, and password restricted access to the various levels of the record. The local '*Caldicott Committee*' would advise on appropriate levels of access.
40. Thus, the service user would benefit from all involved in their care having access to all relevant information, which is currently not the situation, but confidentiality would be protected by restricting access to those with a need to know. There would also be an audit trail documenting who had accessed part, or parts, of the record.
41. The advantages for the service user having all relevant clinical and social care information available wherever and whenever it is needed have already been well summarised above. An electronic system also offers the opportunity for a greater degree of security and confidentiality, in that access to particular parts of the record can be electronically protected and restricted to named staff, thus allowing greater control than the current paper records, which are stored in a variety of locations around the island.
42. However, under the proposed UK NHS 'Connecting for Health' project, it is likely that patients will be given the opportunity to have additional security locks on certain portions of their health and social care record, which might be regarded as sensitive (these might include past psychiatric history, child protection issues, etc). The permission of the patient would then be required before the security lock could be opened by a medical professional. It is likely that similar opportunities would be offered under the Department's EHSCR proposals.

Cultural and Change Management

43. It has been suggested that, for successful implementation of an electronic health record, some 85% of the project's time and resources should be allocated to cultural, professional and business change management and only 15% in relation to the most appropriate IT solution.
44. The department has accepted that implementation of the clinical and social care record is not just an IT project, but more of an organisational change project with an IT component.
45. To achieve successful implementation, therefore, requires the examination of existing working practices throughout the health and social care system, in order to:
 - streamline the delivery of health and social care;
 - standardise health and social care professionals' processes and procedures;
 - eliminate duplication of effort;
 - improve efficiency of service delivery.
46. A key component of this is the ability to share information seamlessly and transparently between all involved carers. This will require specific training and development, so that staff feel confident and comfortable with new ways of working which fully realise the benefits and advantages offered by an electronic information system over the traditional paper based record.
47. The department has had the benefit of introducing several large scale clinical IT based systems and the associated change management. Implementation of RIS and PACS, together with the pathology system, are widely seen as clinical successes.
48. Implementation of the States' SAP IT system in the areas of procurement, financial management, plant maintenance and payroll has also contributed significantly to the department's experience of introducing large scale systems and the associated change management that accompanies them.
49. The features of the projects which contributed to those successes were:
 - a common vision of the purpose and benefits of the system to be implemented;
 - good clinical involvement and engagement from all health and social care staff;
 - good understanding and communication of the change processes, resulting from implementation;

- strong project and contractual management throughout implementation;
 - on-going support to embed the changes and troubleshoot initial problems.
50. With this past experience, the department has a body of knowledge and experience which can now be focussed on ensuring the success of the EHSCR project. Many existing department staff have expressed support for the EHSCR project and this number is expected to grow as the benefits become increasingly apparent. An appendix is attached showing comments made by staff, both past and present, in favour of this system.

Compliance with States' Initiatives and Strategy

51. The Chief Executive of the States is looking at "Modernising the Civil Service" and is currently examining the concept of service delivery, to ensure that States Departments are able to respond to change and public demand and that the services they provide are within the resources available. The implementation of an EHSCR and the resulting business change process will significantly contribute towards this vision.
52. The Department's proposals are in line with the recently updated and approved States' Information and Communications Technology (ICT) strategy, which will support the Government Business Plan proposals. The Director of Information and Communications Technology for the States of Guernsey has said, "The solution chosen is a robust and proven system which runs on the standard States ICT infrastructure, uses industry standard integration technology and employs non-standard, proprietary but well established products. The timetable is ambitious and will require a high level of commitment and support across the organisation."
53. Implementing changes in Guernsey legislation in respect of children's services and mental health, together with the operational and information needs of Alderney, also need to be recognised and included in any preferred solution.
54. The States' Specialist Health Insurance Scheme contract with the MSG, approved by the States in 2002 (Billet D'Etat II 2002), requires the department and the MSG to develop a single integrated electronic record. It is also hoped to incorporate the clinical records of service users referred under contract to the Guernsey Physiotherapy Group (GPG).

Selection Process

55. The Department appointed a Project Feasibility Team, drawn from health and social care professionals, to undertake an evaluation process of potential suppliers. This team reported to a Project Board, chaired by the Chief Officer.
56. This team has also benefited from advice and input from St James' Chambers, the Internal Audit Department, the States ICT Director, the States' Insurers, the

Data Protection Commissioner and limited external consultancy in relation to contract preparation and selection criteria.

57. In early discussion with potential bidders, it was considered that a substantial contract period would be the most beneficial to the department, for the following reasons:-
- Suppliers would all be able to offer a more competitive price, as bidding, hardware, development and start-up costs could be spread over a much longer period;
 - It will take around three years to implement the system and to begin to realise the benefits;
 - A real partnership can be developed with the successful supplier to improve and develop the solution to meet the future needs of the department and its care partners;
 - A greater degree of resilience is likely to be built into the solutions due to the longer life of the contract.
58. Therefore, at the tender stage, suppliers were asked to bid on both a 5 year and 10 year contract period.
59. To compensate for the long contract period, the department has ensured that much of the financial risk rests with the supplier and that sufficient conditions and warranties are included in the contract to ensure that the department can take effective action in relation to remedies, including early termination, if the chosen supplier fails in its contractual duties.
60. Sixteen possible suppliers were identified, who were then invited to make presentations in Guernsey and provide the opportunity for department staff to visit health and social services reference sites where their systems were in operation.
61. From these 16 suppliers, 14 were sent 'Expression of Interest' documents, in which they were asked to outline their interest in providing the department with a comprehensive system and an indication of how this would be achieved. 13 responses were received and evaluated and, from these, formal tender documents were sent to 9 suppliers. 7 suppliers returned formal tender documents.
62. Following a further evaluation exercise, 4 suppliers were invited to enter into negotiations in relation to their proposed technical solution, the terms and conditions of the contract, the payment profile and the contract schedules themselves.
63. From these negotiations, two suppliers were selected to go forward to the final round of negotiations.

64. The discussions with the final two suppliers involved a series of detailed meetings, workshops and reference site visits. The department believes that both suppliers satisfactorily demonstrated that they had the necessary track record, ability and commitment to deliver the department's requirements.
65. On completion of the negotiations, these two suppliers were asked to submit a best and final offer in relation to their price, meeting the agreed specification and contract requirements.
66. The cost to the department of the project, based on the final proposals submitted by the two suppliers amounts to £6,400,022 and £6,186,726, respectively, over a 10 year period. This does not account for contingency, hardware or internal revenue costs.

Summary of Suppliers' Tender Price over 10 Years

	Supplier A	Supplier B
Hardware	445,816	162,372
Software	347,148	854,963
Third party software	639,888	167,371
Interfaces	160,873	216,750
Data migration	16,830	35,000
Implementation and go-live support	1,317,021	1,045,803
Training	108,611	290,300
Support costs	3,363,835	3,414,167
Total	£6,400,022	£6,186,726

67. After careful consideration and a detailed evaluation, the department is recommending that the tender from Supplier B is accepted. Supplier B is identified as TrakHealth UK Limited. The department considered that, on balance, the proposed approach of TrakHealth was preferable for the following reasons:
- lower priced bid;
 - the supplier's acceptance of the contractual conditions recommended by St James' Chambers;
 - a preferred technical solution;
 - a flexible approach to suit the circumstances of the department;
 - a proven track record of implementation within similar environments.

Project Management and Control

68. The department will maintain overall design, implementation and cost control requirements through the establishment of a Project Board, chaired by the Chief

Officer. The Chief Officer will be supported in this role by other senior officers, together with the Chief Executive of the MSG.

69. The Project Board will be supported by an implementation team, drawn from health and social care professionals, under the direction of a Project Manager and will be supported by the States ICT Director.
70. The project will be managed using Prince2 methodology, which is a tried and tested system used to manage large projects. It is the standard adopted by UK central and local government departments, where its use is mandatory. It is used to an increasing extent in Guernsey by various departments, including the Treasury & Resources Department.

Implementation Timetable

71. The design and implementation stages are expected to be completed by 2009, with further options within the contractual arrangements for future development and maintenance of the system over the 10 year life of the contract.
72. The department has planned and costed for post implementation support arrangements to continue throughout the 10 year life of the project.

Project Financial Case

73. Payments to the preferred supplier over the life of the contract will amount to £6,186,726. This sum relates to payments from a capital amount of £2,772,556 and £3,414,170 from the department's revenue budget. The total cost to the department includes a further £1,129,454 in relation to contingency and hardware costs and internal revenue costs of £2,366,000 in respect of staffing. The total cost of the project will therefore be £9,682,180.

Provider	TrakHealth	Others	Total
Capital	2,772,556	1,129,454	3,902,010
Revenue	3,414,170	2,366,000	5,780,170
Total	6,186,726	3,495,454	9,682,180

74. The department's revenue costs of £2,366,000 principally relate to additional short-term and permanent staff to assist in the implementation and maintenance of the system throughout the life of the contract.
75. From other organisations' experiences of implementation, the best results appear to come from those that have successfully combined professional service needs and understanding with the IT systems and technology being introduced. Therefore, in relation to the support required for the project, it is proposed that this is drawn from professional staff currently employed by the department.
76. There is a need for a maximum of 12 staff (not all permanent and not all full

time) to be involved throughout the 3 year implementation period, reducing to 3 staff to provide on-going support for the remainder of the contract term. The MSG has agreed to fund 2 posts. The funding for the other 10 posts forms part of the calculations and, based upon the implementation and resource plan, will amount to a total over the 10 year period of £2,366,000, which is to be funded by internal departmental savings.

77. Overall, the department will need to introduce 3 new posts, for which establishment will be found from within its existing staffing complement.
78. The business case also identifies two types of savings: cash releasing and those realised through improved efficiency.
79. Financial savings of a non cash releasing nature, but based on improved efficiency criteria, are shown separately below.
80. Savings of a cash releasing nature will total £9,819,818 over the life of the project.
81. Efficiency savings, of a non-cash releasing nature, are anticipated to generate a further £1,349,500 over the 10 year life of the project.
82. Thus, the project will be self funding and should contribute revenue savings over the life of the project.

Summary of 10 Year Financial Case (costs are shown in brackets)

	A: Full EHSCR		B: EDS Replacement	
	Capital	Revenue	Capital	Revenue
Capital to TrakHealth	(2.8)	-	(1.9)	-
Other Capital Expenditure	(1.1)	-	(0.4)	-
Sub-Total	(3.9)	-	(2.3)	-
Revenue Costs to TrakHealth	-	(3.4)	-	(1.3)
HSSD Revenue Costs	-	(2.4)	-	(1.1)
Sub-Total	(3.9)	(5.8)	(2.3)	(2.4)
HSSD Savings	-	9.9	-	4.5
NET	(3.9)	4.1	(2.3)	2.1
Efficiency Savings	-	1.4	-	-
OVERALL	(3.9)	5.5	(2.3)	2.1

Funding

83. The above summary demonstrates that the replacement only option would see the department spending £2.3m of capital expenditure. The revenue costs of implementing this option are £2.4m. However, the Department is likely to see corresponding savings of approximately £4.5m. The total cost to the Department, therefore, would be £2.3m capital investment, producing a revenue

saving of £2.1m. There are unlikely, however, to be any significant staff savings.

84. The costs of introducing the full EHSCR are £3.9m capital and a revenue expenditure of £5.8m over the 10 year period. However, the department anticipates savings of £9.9m in cash releasing benefits over the 10 year life of the project. Therefore, for an expenditure of £3.9m capital, an anticipated £4.1m revenue saving can be made.
85. The department will also produce non-cash releasing financial benefits amounting to £1.4m, over the life of the project, if the full EHSCR is implemented, thereby indicating overall savings of £5.5m.
86. The proposal, therefore, is to introduce the full EHSCR system, where savings of some 20 staff and £5.5m over the life of the project can be made.
87. To achieve this, the department is seeking a total capital sum of £3.9m.
88. The department is seeking £3.1m of this from the States' Capital Reserve Fund. A further £0.8m is requested from the Restructuring and Reorganisation Fund on the basis that, over the life of the project, significant savings will be made.
89. The Treasury and Resources Department has included this project as one of the key priorities in its proposals for capital expenditure over the next few years and it is hoped that the States will support this at the October 2006 meeting.
90. It is apparent that the department will incur additional revenue costs during the first phase of the implementation and these will be met from within the department's cash limit for the years concerned (2007 and 2008).
91. In summary, the department is seeking to invest some £3.9m capital expenditure, for which it expects to achieve £4.1m reduction in its revenue budget and contribute some £1.4m in efficiency savings, over the 10 year life of the contract.

Summary

92. It is imperative that the Health and Social Services Department replaces its outdated and soon to be unsupported '*Service user Administration System*'.
93. A direct 'like for like' replacement is not available and the nearest match option would not:
 - contribute towards the development of higher standards of clinical care and information provision;
 - realise any of the benefits of organisational change and operational cost savings.

94. In contrast, a full EHSCR will:

- provide a comprehensive health and social care record across all areas of activity of the Department and with health and social care partners;
- contribute towards improved standards and co-ordination of clinical care;
- provide additional management information to better manage current services and plan for future health and social care needs;
- drive the business change process, contributing towards the modernisation of health and social care in Guernsey and Alderney.

Recommendations

95. The Department therefore recommends that the States:

- a. approve the introduction of a full Electronic Health and Social Care Record, as set out in this report;
- b. approve the acceptance of the tender from TrakHealth UK Limited in the sum of £6,186,726;
- c. vote the Health and Social Services Department a credit of £3,900,000 to cover the cost of the capital works associated with this project, such sum to be charged to its capital allocation;
- d. authorise the Treasury and Resources Department to transfer appropriate sums from the Capital Reserve and Restructuring and Reorganisation Fund to the capital allocation of the Health and Social Services Department.

Yours faithfully

P J Roffey
Minister

COMMENTS FROM HEALTH AND SOCIAL CARE PROFESSIONALS

Consultant Physician:

“Everything I need will be in one place, always there and accessible. One record instead of the many. It will make things much more easy, it will be clearer what has been done, who did it, and when it was done, it should be possible to cut and dice the notes so that is possible to follow a professional group's interventions, and also to see the whole process chronologically.”

Consultant Surgeon:

“One of the key advantages will be accessibility; you can access the notes anywhere in the HSSD or MSG at anytime. This will be a real help when you are on-call and do not know the patient personally; you will have all the information you need to make an informed decision. For prescribing it will be fantastic, you will have the BNF there to help, the drug history, allergies, everything you need to do the job. Discharge will become much easier, again all the information you need to communicate with the GP and a quick way of doing the prescription. In theatre, we can have standard templates and pictures, clinician designed, producing a far clearer operation record.

I cannot see any disadvantages, except the issues of privacy and confidentiality which, when one looks at the existing paper system, is wide open now, so it can only be an improvement.

The key change to my own practice will be that it will make my life easier; everything I need available in one hit, do not have to go back later when information/notes etc. have been found so I can make a decision.

The key change for my team will be that it will alter the way they work, time will be saved not hunting down lost notes, easing the process of booking clinics, requests etc. It will also give us information that will enable far better management of theatre sessions. We will be able to predict far more accurately the amount of work that can be done in one list. This will prevent over-booking and the need to use such rules of thumb, as a case can take twice as long as the surgeon predicted (surgeon time). The real start and finish times of lists, getting rid of the “add 20 minutes to allow for him being late”, will be known and can be planned for, or managed.”

Consultant Anaesthetist:

“The key advantages will be making the information available, eliminating the problems of having information which is unobtainable because of the logistical impossibility of getting it together in time to be useful. This better organisation of the clinical record should produce better decision making, and reduce errors as the

information is always available. Drugs will be recorded accurately, with a record of what was prescribed and what was collected, does not eliminate what they did not take as an unknown. The drug record can be directly lifted from the electronic record into the prescription accurately. ICU and Theatres are very structured areas, so the electronic record will work well there."

Consultant Anaesthetist:

"Data entered can't be lost and can be accessed by more than one person in more than one location at any time. Presently, hospital notes can only be seen in one place at any one time, and important pieces of paper can go missing. Audit will be facilitated because of the improved access to data. Electronic records in intensive care frees up nursing time for direct patient care. Electronic prescribing can prevent human error with dosage in prescribing, as the programme won't let an inappropriate dose be prescribed."

Senior Pharmacist:

"It will decrease the tedium of medicines administration, reducing the potential for errors. It will decrease the number of problems, which currently need tidying up in the prescribing process. It will enable practice to be standardised, without increasing inflexibility, allowing protocol prescribing. It will increase the input; by reducing the time pharmacist spend on cleaning up the prescribing process, on nurse and patient education. It will give pharmacists more time to spend on improving drug selection, before treatment commences, rather than mopping up the problems retrospectively."

Ward Manager, Victoria Wing:

"It will cut down time wasted searching for notes, lost documents, trawling through paperwork for key information. It means every ward working with the same information; it is all there, easier to update and maintain. Electronic prescribing means less mistakes, less delays on giving medicines, better communication between prescriber, pharmacy and the ward. It will save time on writing."

Ward Manager, Brock Ward:

"It will give us far better continuity of care. It means we can see the whole clinical picture clearer. It will save us time. It will reduce clinical risk, which will be a big benefit. It will cause a change of culture, by eliminating the handwriting and interpretation problems from the clinical process. It will improve the standard of record keeping. It will improve the transfer process."

It will increase the efficiency of the team. It will increase our ability to audit our practices. The change in the ward will not be in what is done, only in how it is done. It will make handover easier. It may reduce the time this takes and reduce the amount of misinformation passed on, and make clearer the information that needs to be passed on. It will also eliminate the irrelevancies of handover. It will focus the information to be

exchanged between practitioners, increasing effectiveness of the team, and reduce the loss of information and actions which fail to get done.

It should increase the time available for patients. It will help with the planning of the ward team mixes, allowing the balance of dependency/workload between teams to be achieved, skill mix needs etc. It will enable us, from auditing the past, to establish trends in workload and case mix, which will help with educational requirements and resource planning.”

Deputy Chief Pharmacist:

“All the documents will always be there, nothing is missing. There should be fewer errors due to the lack of information. There is decreased risk of mistakes due to illegible handwriting. There will be an increase in knowledge about the why, what, where, who and when of clinical decisions.

It means we can become more hands on, patient focused, advising on medication choices, releasing us from solving issues in the prescribing process. It will improve the quality of medicines usage and therefore of patient outcomes.”

Staff Nurse, Ozanne Ward:

“Easy to read by everybody, because it’s no handwriting anymore. Less paperwork, because everything will be in one instead of separate care plan + cardex + medical notes.”

Staff Nurse, Ozanne Ward:

“Communication between consultants, nurses, physiotherapists, etc. should improve with everyone feeding into the same records.”

Staff Nurse, ICU:

“Easy to access. Hopefully less time consuming documentation process.”

Staff Nurse, ICU:

“All documentation in one place, easy to access, won’t miss anything, better continuity and, for patients, better confidentiality.”

Former Clinical Service Manager:

“It is clearly the way forward, we will have access to all the record that you need, rather than the bits of paper, which may not be found or be inaccessible, or not easily digested. You will have the whole record, which is up to date; this should make life easier. It will save time as records will be available in a timely fashion; we will not have to hang around waiting for the notes but be able to call them up instantly and

identify problems with and without a history. The medication history is a dark area at the moment, often very incomplete, and not always very current. The new system, because it means you have access to the total medical history, means you can make more informed and safer decisions on patient care.

It will change the way the ward teams work, it will make them far more multi-disciplinary. Everyone will be entering in the same record. This will make the record clearer, it will be all together, which is a clear benefit to the patient. In critical care, much of the information is repetitive, so only needed once and then can build on it. We can download monitoring information from the machines, ventilators, blood pressure, etc., which means we have all the information stored in the record. The issues surrounding confidentiality will be much simplified."

Consultant Obstetrician and Gynaecologist:

"We are very supportive of electronic patient records and we have been using the stork maternity system for several years. All the consultants in the obstetrics and gynaecology department realise the importance of good record keeping and correct coding with regards to workload issues. We therefore would like to be considered as one of the first departments for the implementation of the electronic patient records."

Disability Service Manager:

"Providing confidentiality is maintained, this should enable a seamless and smooth transition between health and social services and ultimately be more service user friendly and cost efficient."

Clinical Team Member, Disability Service:

"Confidentiality is a big issue, but will potentially save time for service users because they will not have to continually repeat their story."

Clinical Nurse Specialist:

"We will have all the data we need to manage healthcare, at our fingertips. Access to the data will be dependent on role and responsibilities. It will provide a comprehensive clinical communication system. It means that clinical data is recorded accurately. This will benefit the patient and it will reduce duplication of work, such as three audits being carried out on breast cancer, by different staff groups. This kind of duplication of effort is wasteful, and because of the difficulties extracting the information from paper records, may not always be complete, so different information and deductions may be obtained from the different audit groups. It will mean we only have one record; everything will be entered on that. So it will not matter which team you are working in, you will, with relevant authority, be able to see all the interventions other care teams have made. It means we have only one clinical data set. It should dramatically reduce medication errors, reducing the risk of harm to patients by acts of omission or commission. It will create a far more efficient method of storing clinical information."

Electronic records are already used in my area of practice, such as the 'red book', so I see this as an extension of that process. Retrieval of information will be far simpler, and save time, over the current collation of paper records. It will aid the communication within my team and between my team and others involved in the care of our patients."

Consultant ENT Surgeon:

"The provision of an EHSCR will undoubtedly be of enormous clinical benefit to medical and nursing staff and, more importantly, to the actual patients under our care. At its most basic level, it will make prescribing safer, reducing drug errors and allergic reactions through its inbuilt defaults. It will facilitate access to medical records in all areas of the HSSD and the MSG, removing the intrinsic problems of dual case note records and missing notes, and enhancing non-clinical planning, e.g. theatre scheduling and ordering. It will provide the foundation for more accurate and useful recording of clinical work and outcomes, thereby enhancing audit and the delivery of safe and appropriate care.

Its inbuilt electronic base will make for more rapid and enhanced communication with our GP, medical and allied health profession colleagues by removing (perhaps altogether) correspondence by paper and "snail-mail". It will enable immediate online access to pathology and radiology results anywhere in the hospital or the MSG, and allow different health professionals to simultaneously access the same health record. It will almost certainly reduce clerical time and costs by reducing the need for the typing (and double checking) of letters, operation records and discharge summaries.

Our current paper system is slow, prone to lost documentation, unable to produce reliable, accurate and easily accessible clinical data, hugely inefficient in terms of the number of staff required to support it and mitigates against rapid communication. It is inevitable that all health systems will eventually move towards an EHSCR and no question that doing so will result in the delivery of safer, quicker and better health care."

Health Visiting and School Nursing Services Manager

"Electronic health and social care records will help to streamline record keeping both in terms of current and archived notes. Information sharing will be enhanced and the quality of notes and record keeping will be improved, with audit and monitoring being easier. Being able to access information immediately, without having to search through dozens of records, which can be in two different places in the building, will save much time."

(NB The Policy Council supports the proposals.)

(NB The Treasury and Resources Department supports the proposals.)

The States are asked to decide:-

VII.- Whether, after consideration of the Report dated 13th October, 2006, of the Health and Social Services Department, they are of the opinion:-

1. To approve the introduction of a full Electronic Health and Social Care Record, as set out in that Report.
2. To approve the acceptance of the tender from TrakHealth UK Limited in the sum of £6,186,726.
3. To vote the Health and Social Services Department a credit of £3,900,000 to cover the cost of the capital works associated with this project, such sum to be charged to its capital allocation.
4. To authorise the Treasury and Resources Department to transfer appropriate sums from the Capital Reserve and Restructuring and Reorganisation Fund to the capital allocation of the Health and Social Services Department.

COMMERCE AND EMPLOYMENT DEPARTMENT**REVIEW OF TRUST LAW IN GUERNSEY**

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

27th October 2006

Dear Sir

1. Executive Summary

1.1 This report contains proposals for changes to Guernsey trust law designed to maintain the competitive position of the Island's financial services sector. The proposed reforms follow a thorough review of the current legislation – the Trusts (Guernsey) Law, 1989, as amended ("1989 Law") – and comprise amendments to the Law, including provisions to establish purpose trusts. The report also seeks an agreement 'in principle' to the introduction of Foundations into Guernsey law which will form the subject of a further detailed report to the States.

2. Background

2.1 The Department's role in monitoring legal developments worldwide is to ensure that Guernsey is proactive in relation to its legal framework in order to accommodate and encourage a wide range of commercial and financial services activities. The Department is responsible for developing initiatives to ensure that Guernsey's legislative framework is robust in a regulatory sense, but at the same time encourages new business flows.

2.2 The Department believes that Guernsey must develop its trust law, not only to serve the needs of the finance industry but all users of trusts. Importantly, the success of the fiduciary sector is dependent substantially on trusts; and so Guernsey's trust law must be appropriate for the needs of those using it, who also include individuals living in Guernsey. Whilst the financial services sector relies on trusts, it is essential that any revisions should strike a balance to ensure that, whilst being 'competitive', Guernsey has legislation that meets the highest standards of practices and procedures.

3. Introduction

- 3.1 The fiduciary sector remains one of the four pillars of Guernsey's financial services industry. Its development and ongoing success plays a significant part in the stability and growth of the local economy. Trusts are used extensively, both privately and for mutual funds, and a significant proportion of such funds managed in Guernsey are structured as trusts rather than companies.
- 3.2 The proposals arise from a thorough review by a Working Group established by the Department to review the 1989 Law. The Group was chaired by Advocate Rupert Evans and its remit and membership are set out in Appendix I. The Department wishes to place on record its appreciation of the work undertaken by the Group and all those who contributed to the process.
- 3.3 Part of this process involved considering revisions to the 1989 Law and, in addition, there are specific proposals to introduce 'purpose trusts'. Separately, new legislation will be promoted to introduce foundations into Guernsey law. All these follow an extensive process of consultation with industry, with the financial sector organisations, including GIBA, with the Guernsey Bar and, in particular, with local practitioners.
- 3.4 This Report will explain the function of a purpose trust and, in general terms, a foundation and the potential benefits they could offer. In the case of foundations, the Department would stress that, at this stage, the States is being asked to endorse the principle of their introduction and, if so, a further Report will be brought forward detailing legal and regulatory issues.

4. Proposed specific amendments to the 1989 Law

- 4.1 The Group proposed certain specific amendments to the 1989 Law, as follows. References to Sections are to those of the 1989 Law.

Section 11

- 4.2 The Group received representations to the effect that this provision should not be restricted to “any foreign rule of forced heirship” but should apply to any rule of forced heirship, so that persons resident or domiciled anywhere (including Guernsey) and of whatever nationality should be at liberty under Guernsey law to create a Guernsey settlement and transfer property to a Guernsey settlement without the necessity to have regard to any rules of forced heirship (and, possibly, to rules relating to community of property). The Group however concluded that this matter is more properly within the remit of the Inheritance Law Review Committee than this review. The Department concurs.
- 4.3 The Group has also considered whether the 1989 Law should be clarified in the light of decisions of courts in other jurisdictions seeking or purporting to vary trusts expressly governed by Guernsey law (particularly in relation to

matrimonial disputes). This issue has been addressed by some jurisdictions, such as Bermuda and the Cayman Islands. The Group received evidence that the current position in Guernsey makes the jurisdiction unattractive for some advisers and their clients, and therefore uncompetitive.

- 4.4 The Department therefore recommends the amendment of Section 11A of the 1989 Law along the lines set out in Part VII of the Cayman Trusts Law (2001 Reversion), attached as Appendix 2 to this Report. It is noted that this legislation covers rights emanating from “personal relationships” which would cover not only marriage but civil partnerships and other same sex unions which are being recognised by an increasing number of jurisdictions.

Section 12

- 4.5 The Group received representations to the effect (a) that there should be no time limit at all for the duration of a private trust; (b) that any time limit should be greater than 100 years and (c) if there is to be a time limit, the legislation should expressly state that resettlement for a further period is permissible (subject to being a *bona fide* exercise of the trustees’ power).
- 4.6 Accordingly, the Department recommends the removal of the 100 year limit in respect of trusts created after the coming into force of the amendment to the 1989 Law. However, there would be and is no reason why the express terms of a settlement should not impose a limit on its duration.

Section 14

- 4.7 The Group recommended that this Section should be amended to make it clear that the terms of the trust may contain an express power to remove trustees. The Department concurs.

Section 18

- 4.8 The Group’s view (and supported by representations received) was that the 1989 Law should be amended along the lines of Section 14 of the Cayman Trusts Law (2001 Revision) – see Appendix 2 – so as to make it plain that the express reservation of any specified matter will not invalidate a trust, and that any exercise of any reserved powers absolves the trustees from any liability as a result of such exercise. It also recommended that a consequential amendment be made to Section 53 to ensure that the Royal Court’s inherent jurisdiction granted by that Section is not impeded by a revised Section 18. The Department concurs.

Section 22

- 4.9 Concerns were expressed that the law relating to trustees’ duties or obligations to provide information in response to requests from beneficiaries is unsatisfactory in the light of the decision of the Privy Council in Schmidt -v-

Rosewood, and other recent decisions in the Guernsey courts. The Group recognised that there are often good reasons for some beneficiaries to be denied information; for example, children and grandchildren in a family discretionary trust for whom knowledge of the existence or size of a trust could be damaging; or co-workers in an employee benefit trust who would expect privacy to be preserved in relation to their own benefit or interest under the trust.

- 4.10 Accordingly, it recommended that Section 22 is redrafted to unequivocally provide that the terms of the trust may expressly exclude beneficiaries' rights to information, but without prejudice to the overriding right of any beneficiary to apply to the Royal Court for information. There should however be provision that on any application by a beneficiary seeking information to which, by the terms of the trust the beneficiary is not entitled, the burden of proof will rest with that beneficiary. The Department concurs.

Section 28

- 4.11 The Group recommended that Section 28(3) be amended to make it plain that a person consulted by the trustee in relation to the affairs of a trust need not be under any fiduciary duty or obligation if the terms of the trust so provide. The Department concurs.

Section 29

- 4.12 Representations were received by the Group that the limitation of the grant of a power of attorney by a trustee to a period of 12 months is too short. The Group considered it would not be appropriate for trustees to be able to grant powers of attorney which would be valid for an indefinite period (with the exception of situations where trustees are required to appoint attorneys under documentation giving security over trust property), but agree that it would be reasonable to extend the period to, say, 3 years. The notice requirements of subsections (5) and (6) should not change. The Department concurs.

Section 33

- 4.13 Following the decision of the Royal Court in Bathurst to the effect that a letter of wishes does not "reveal material on which a decision of trustees was or might have been based", the Group recommended that the section be amended to make it plain that letters of wishes or documents which reveal the intentions of the settlor or of any beneficiary are preserved from disclosure but subject to the terms of the trust or of any order of the Royal Court with the burden of proof in any application to the Court being on the beneficiary seeking disclosure. The Department concurs.

Section 34

- 4.14 It has been suggested that there may be some doubt in relation to trusts created

before the coming into force of the 1989 Law as to whether a provision in such a trust relieving trustees from liability in a form wider than that permitted by Section 34(7) would be (i) valid but subject to the limitations imposed by Section 34(7) or (ii) wholly invalid. The Group recommended that any provision relieving trustees from liability in a trust, whenever made, takes effect subject to Section 34(7). The Department concurs.

Section 38

- 4.15 The Group recommended that this section should be placed in Part IV of the Law (provisions of general application) rather than in Part II (provisions applicable only to a Guernsey trust). The Department concurs.

Section 39

- 4.16 Section 39(1)(b) enables a retiring trustee to require reasonable security before surrendering the trust property.
- 4.17 The Group's view was that the 1989 Law should be amended to provide that the retiring trustee is entitled to no greater indemnity (in extent or amount) than that to which it would be entitled had it remained as trustee. In addition there should be an automatic non possessory lien for trustees over trust property, so that when trustees incur liability on behalf of the trust this would be automatically coupled with a non possessory lien over the trust property. Unless expressly waived, this lien would continue when a retiring trustee transferred trust property to a new trustee or a beneficiary, but would not have effect against a bona fide purchaser for value of trust property. The Department concurs.

Section 43

- 4.18 This section is broadly modelled upon, but is not identical to, the provisions of Sections 31 and 32 of the Trustee Act 1925. While Section 31 of the Trustee Act 1925 provides that income is subject to a trust for accumulation with a power for distribution, Section 43 in effect provides the reverse. The Group recommended that Section 43(2) is amended to provide that income which is not distributed shall be accumulated and Section 43(3)(a)(i) is omitted. The Department concurs.

Section 57

- 4.19 The powers conferred by this Section to prescribe investments have never been exercised and in the view of the Group are unlikely to be exercised. The provisions of Section 57 are almost invariably excluded in Guernsey trusts in reliance on Section 57(2)(a). The Group recommended the repeal of this section. The Department concurs.

Section 70

4.20 This provides that directors of a corporate trustee which is a trustee of a Guernsey trust, or is resident in Guernsey, or is carrying on business in or from an address in Guernsey will be deemed to be a guarantor of the trustee in respect of any damages or costs awarded against the corporate trustee for breach of trust.

4.21 The Group recommended the repeal of Section 70(1) for the following reasons:

- (a) there is evidence that advisers are recommending the use of other jurisdictions as locations for private trust companies because family members who wish and professional advisers who are invited to sit on the board are not prepared to accept the liability imposed by Section 70(1);
- (b) it is difficult to see how the provision can be enforced against the directors of foreign incorporated trustees;
- (c) the provision applies to a trust company administering a Guernsey proper law trust outside Guernsey thus placing such trusts at a disadvantage to other jurisdictions which do not have a similar provision in their trust legislation;
- (d) whilst it does not only apply to regulated trustees, it creates unjustified discrimination against directors of fiduciary businesses compared to all other regulated financial services businesses in Guernsey, or indeed any other professional who can conduct his practice through a limited company;
- (e) it acts as a deterrent to the establishment of new trust companies in Guernsey *vis-à-vis* other jurisdictions.

4.22 The Department concurs.

Section 71(2)

4.23 Representations were made that Section 71(2)(a) is unsatisfactory and ambiguous, because it is not clear whether the words “final accounts” refer to annual accounts, accounts prepared on the termination of the trust, or accounts prepared to reflect a beneficiary’s final entitlement under a trust which otherwise continues. Further, Section 71(2) deals only with the position of a beneficiary and not that of a successor trustee who discovers a breach of trust by his predecessor.

4.24 The Group regarded these criticisms as having merit and recommended amending Section 71(2) by omitting paragraph (a) and the final words of the sub-section, and making the subsection applicable to successor trustees as well

as beneficiaries. The Department concurs.

Section 71(3)

4.25 Representations were made that this subsection imposes an unfair burden on trustees where a trust may have a wide class of beneficiaries some of whom may not even have been born at the time of the breach of trust. It is pointed out that adult beneficiaries who are parents of minor beneficiaries may be fully aware of a breach of trust but may choose to delay seeking redress until a minor comes of age, long after the three year limitation period in Section 71(2) has expired.

4.26 The Group had considerable sympathy with these concerns and accordingly recommended:

- (a) the limitation period for a minor (including unborn beneficiaries) or a person under a legal disability should be 3 years from the actual knowledge of his parent or guardian;
- (b) there should be an absolute long stop limitation period of 18 years from the date of the breach; and
- (c) any judgement would bind all beneficiaries (current or future) – provided there has been an opportunity to make representations on their behalf.

4.27 The Department concurs.

Section 72

4.28 Section 72(2) provides that the law, apart from Section 52 to 56, does not apply to a trust insofar as there is vested in the trustees any interest in real property in the Bailiwick of Guernsey.

4.29 The Group suggested that Section 72(2) should be repealed and the definition of “property” in Section 73(1) should be amended to remove the limited exclusion of real property in the Bailiwick of Guernsey, or at least real property in the Island of Guernsey, (if the 1989 Law continues only to apply to Guernsey rather than the Bailiwick (see below)). The Department concurs.

Power to compromise:

4.30 During the preparation of this Report, the attention of the Department was drawn to an omission in the 1989 Law, being the power to trustees to compromise litigation without necessity of recourse to the Royal Court to sanction any such compromise.

4.31 The Department recommends that such a power be expressly incorporated in the legislation.

Trust applications

4.32 Representations have been received that applications to the Royal Court under the 1989 Law should be capable of being heard by the Bailiff sitting alone, as such applications are usually concerned with the application of the law to agreed facts. The Department accepts that this would simplify such applications, and recommends accordingly.

5. Purpose Trusts

5.1 At present, Guernsey law requires a trust to be either for the benefit of identifiable persons, including companies, or for the benefit of charitable purposes. A trust for the benefit of non-charitable purposes is expressly invalidated by virtue of the provisions of Section 11(2)(d) of the 1989 Law, drawn heavily from the equivalent Jersey legislation where a similar prohibition against non-charitable purpose trusts was originally to be found. This is a stricter application of the “beneficiary principle”¹ than one finds in England where certain non-charitable purpose trusts are accepted as valid². The English Common Law permitting certain purpose trusts applied in Guernsey prior to 1989.

5.2 Some academic authority now suggests that in fact the courts in England regularly enforced non-charitable purpose trusts for over 600 years and that the “beneficiary principle” is in fact a fairly recent misinterpretation of English case law.

5.3 In Jersey the decision was taken ten years ago to permit non-charitable purpose trusts and the Jersey legislation was later modified accordingly (“the 1996 Jersey Law”). Guernsey is now one of the few trust jurisdictions which does not expressly cater for non-charitable purpose trusts. Bermuda, the BVI, the Cayman Islands, Cyprus, the Isle of Man, Jersey, Liechtenstein, and Mauritius are among those whose governments have introduced legislation permitting the existence of non-charitable purpose trusts. Trust practitioners in Guernsey have frequently asserted that, as a result of Guernsey not having such legislation, business has been lost to competing jurisdictions. The Guernsey branch of the Society of Trust and Estate Practitioners unanimously support the introduction of legislation permitting Guernsey Law to recognise the validity of non-charitable purpose trusts.

5.4 It is recommended that the 1989 Law be amended so as to permit such purpose trusts.

¹ The idea that for a trust to exist there must be a beneficiary able to enforce the trust. *“There can be no trust over the exercise of which this court will not assume control; for an uncontrollable power of disposition would be ownership and not trust. If there be a clear trust but for uncertain objects the property, that is the subject of the trust, is undisposed of.... But this doctrine does not hold good with regard to trusts for charity.”* Morice -v- Bishop of Durham (1804)

² For example, trusts for the construction and repair of graves and monuments, gifts for masses, gifts for the benefit of animals.

A. Use of Purpose Trusts

- 5.5 Purpose trusts have a number of useful applications both in a commercial context and for the more traditional private client business conducted in Guernsey. It is commonplace for large multi-national companies to seek commercial or other advantages by entering into contractual relations with special purpose vehicles (“SPVs”) not owned by the companies concerned. This is often the case in securitisation and finance transactions, for which Jersey has a more established reputation as a jurisdiction than Guernsey. The existence of non-charitable purpose trusts in Jersey is suggested as being one reason why that jurisdiction attracts more securitisation business than Guernsey. Securitisation business typically involves an SPV which issues loan notes or bonds, the sale proceeds of which are invested to provide the cash flow necessary to meet the interest obligations on the notes or bonds.
- 5.6 Trusts with beneficiaries pose a number of problems in such a structure where the company concerned cannot have any equitable interest in the SPV if the desired benefits are to be secured, and if the SPV is not part of the corporate group as far as accounting standards are concerned. The identification of suitable beneficiaries is a major issue. Beneficiaries can, in certain circumstances, also wind up trusts in their favour. This is an unacceptable risk in many commercial transactions. As a result, it has been the practice in Guernsey, and elsewhere, when it has been necessary to establish these structures, to establish a charitable trust to hold the shares in the SPV. Charitable trusts do not necessarily provide the ideal solution. It is often the case in transactions with a commercial motivation that the principals establishing the structure wish to minimise the flow of benefit to the charities concerned. If the benefits are too limited, the structure is vulnerable as being set aside as a 'sham' and a resulting trust may arise in favour of the company transacting with the SPV, possibly destroying the advantages in setting up the structure in the first place. If the benefits are too generous then the structure becomes uneconomic. If the charity concerned is named in the trust, it may seek to interfere in the structure increasing the costs of running the structure or in an extreme case compelling the winding up of the charitable trust, and hence the whole structure.
- 5.7 Entrepreneurial individuals seeking to provide for the welfare of future generations may be concerned to ensure that, after their death, their businesses are not fragmented or sold. One intention may be to divorce the benefit of a business from its control. Where beneficiaries are named in the trust they can, if all adult and *sui juris*, act together to set aside the trust, and where substantial sums of money are concerned the motivation to disregard the expressed wishes of one's forbears may be strong. In such a case a trust with beneficiaries may not be the complete solution. Frequently private trust companies are incorporated with the sole function of acting as trustees of family trusts for a specific wealthy family. The management of these trust companies is usually

undertaken by licensed trust services providers, but the ownership of the private trust company itself can be problematic. Purpose Trusts are frequently established to own the shares in such companies. The introduction of Guernsey law purpose trusts will facilitate the growth of this type of business locally.

5.8 The foregoing examples are not comprehensive. Purpose trusts are an established and flexible trust solution to a number of problems regularly encountered in trust and commercial practice.

5.9 The Department recommends that Guernsey law be modified to accommodate non-charitable purpose trusts, whilst also making it clear that a trust for both non-charitable purpose trusts and beneficiaries is also valid.

B. The approach adopted elsewhere

5.10 As most of our competitor jurisdictions have already introduced legislation which validates non-charitable purpose trusts, the Group had the advantage of considering the approaches adopted elsewhere to see which best suits Guernsey's needs, and how those approaches may be improved upon. Without expanding this Report unnecessarily by conducting a detailed comparative analysis there is merit in summarising the apparent three distinct approaches to resolving this issue adopted elsewhere.

5.11 **Bermuda** introduced the Trusts (Special Provisions) Act in 1989 which modified their law by defining a trust as being either for the benefit of a beneficiary or a charitable purpose or a non-charitable purpose or for the benefit of a beneficiary and a purpose. Bermuda also originally imposed a duty that someone be appointed as an "enforcer" to be able to cause the trustee to account for his trusteeship. This model has also been widely adopted in the Caribbean. In 1998 Bermuda revisited its purpose trust legislation to remove references to there having to be "benefit". The legislation simply provides that "A trust may be created for a non-charitable purpose or purposes". All that is required is for the purposes to be certain, lawful and not contrary to public policy.

5.12 A different model was adopted in **the Cayman Islands** where, rather than amending their trust law so as to expressly permit purpose trusts, a wholly separate trust regime was established separate from the pre-existing trust law which applies to trusts with beneficiaries. The Special Trusts (Alternative Regime) Law, 1997 ("STAR") is a "law to permit the creation of non-charitable purpose trusts; and for incidental and connected purposes". It is open for the settlor of the trust to specifically provide that STAR will apply to a trust. Under STAR the objects of the trust may be persons, purposes or both. The purposes may be of any number or kind, charitable or non-charitable, provided that they are lawful and not contrary to public policy. Unlike English Common Law, or legislation based on the Bermudan model, STAR expressly provides that a STAR trust is not rendered void by uncertainty as to its objects or mode of execution. STAR also requires there to be an enforcer a person who has

"standing to enforce" a STAR trust. If there are beneficiaries of a STAR trust they are unable to enforce the trust unless they are also enforcers. The Cayman legislation requires the trustee of a STAR trust to be resident in the Cayman Islands. But the STAR regime has not been without its critics, and the Group did not recommend it providing the model.

- 5.13 Reference has already been made to the 1996 **Jersey Law**. This expressly permitted non-charitable purpose trusts under Jersey Law. Article 10(2)(a)(iv) of the original (1984) Jersey legislation provided that a trust would be invalid if it is created for a purpose in relation to which there is no beneficiary not being a charitable purpose. The 1996 Jersey Law amendment subordinated this section to a new Article 10A which provides:

“A trust shall not be invalid to any extent by reason of clause (iv) of subparagraph (a) of paragraph 2 of Article 10 if the terms of the trust provides for the appointment of any enforcer in relation to its non-charitable purposes, and for the appointment of a new enforcer at any time when there is none.”

- 5.14 Article 10B provides for the appointment of an enforcer, who must be someone other than the trustee, whose duty it is to enforce the trust in relation to its non-charitable purposes. Article 10C provides for the resignation and removal of an enforcer. Jersey law was also modified to provide that a trustee of a trust for non-charitable purposes should be obliged to appoint an enforcer if at any time there is no enforcer in office and also provides for the Royal Court to remove an enforcer who is unwilling or refuses to act or is unfit to act or incapable of acting. The 1996 Jersey Law expressly conferred upon enforcers the right to be provided with the accounts of the trust.
- 5.15 The States of Jersey Finance and Economics Committee when lodging the draft 1996 Jersey Law considered the appointment of an enforcer to be necessary. Its report emphasised that one of the reasons why trusts for non-charitable purposes were historically considered inappropriate was the belief that, for a trust to exist, there must be a person who can enforce the obligations of the trustee to administer it in accordance with its terms. Beneficiaries fulfil this function in a trust established for their benefit. In the case of charitable trusts, this requirement in Jersey is satisfied as H.M. Attorney General there has a role to enforce charitable trusts. The introduction of the office of an enforcer is intended to overcome the historic objection to non-charitable purpose trusts.
- 5.16 In the period since the 1996 Jersey Law came into force several uncertainties concerning Jersey law non-charitable purpose trusts have arisen and the States of Jersey Economic Development Committee has recently proposed amendments to the Jersey legislation to deal with these uncertainties, as follows:
- (a) To clarify the meaning of “purpose” by confirming that holding a particular asset is, in itself, a valid purpose. This change will enable

purpose trusts to be used in a wide range of transactions, including holding shares in private trust companies or in an SPV as part of a securitisation structure with greater transparency and certainty than has previously been possible.

- (b) To enable Jersey's Attorney General to have the power to apply to the Royal Court for guidance where it appears that neither the trustee nor the enforcer are willing to enforce a purpose trust.
- (c) Finally, and importantly, to enable purpose trusts to be perpetual rather than to be limited to the 100 year maximum trust period. This last change will enable Jersey to compete, as a jurisdiction, with those other jurisdictions that permit perpetual purpose trusts.

C. Purpose Trust recommendations

5.17 Guernsey and Jersey trust laws are, in substance, very similar. The Courts of Appeal in both Islands are comprised of the same panel of judges. There seems no sensible reason for Guernsey to prefer the model adopted in Bermuda or the Cayman Islands, in preference to introducing Guernsey law purpose trusts by following the Jersey model.

5.18 The Department recommends that the 1989 Law be amended following Jersey Law, incorporating certain changes as set out below:

- (a) In practice purpose trusts are most often used to hold specified property. If there is any doubt that the holding of an asset may not amount to a “purpose” that doubt must be put to rest. It is essential that there be certainty that the holding of an asset is, of itself, a valid purpose.
- (b) It is essential that there be someone who can enforce the terms of a purpose trust. The Department does not advocate the Bermudan approach of enforcers being optional. If both the trustee and the enforcer contrived to ignore the express terms of a purpose trust, there is merit in enabling H.M. Procureur to bring the matter to the Royal Court for directions. However, changes to the 1989 Law are not required in order to effect this; by virtue of Section 62(2) H M Procureur is already given power to apply to the Court in respect of **any** Guernsey trust.
- (c) The rule against perpetuities is not part of Guernsey law. There does not appear to be any good reason to limit trusts, of any description, under Guernsey Law to 100 years. The public policy concerns that led, in the seventeenth century, to the rule against perpetuities in England do not necessarily apply here. Charitable trusts are readily accepted as being capable of perpetual existence. To distinguish between charitable and non-charitable trusts appears arbitrary in principle. Many jurisdictions attract business by having trust periods in excess of 100 years. Many

permit perpetual non-charitable purpose trusts. Given that Jersey is also proposing to permit perpetual purpose trusts, the Department recommends that purpose trusts not be limited to any trust period. There is no clear public policy rationale for limiting the duration of purpose trusts and to do so would be to put Guernsey at a commercial disadvantage to our competitors.

6. Foundations

Background

- 6.1 It has been possible for foundations to be created under the laws of Liechtenstein since 1926, Panama since 1995, the Netherlands Antilles since 1998 and the Bahamas since 2004. Jersey is currently proposing to supplement its laws to permit the establishment of Jersey foundations.
- 6.2 There is no single definition of a foundation but some common features are as follows:
- Foundations have legal personality and are inscribed on a public register.
 - A foundation is formed by founder(s) who provide assets to it. Powers may be reserved to the founder(s), for example to revoke the foundation or add or remove beneficiaries.
 - A foundation holds assets for the purposes set out in its constitutive documents, and is administered according to contractual, rather than fiduciary, principles making it acceptable to people uneasy with trusts.
 - The constitutive document is a public document, but rules setting out the detailed internal operation of a foundation are contained in a private document.
 - A foundation is run by a council (or board) which is its executive arm and is responsible for fulfilling the foundation's purpose.
 - A foundation has no shareholders and may or may not have beneficiaries depending on its purpose. For example, foundations may have a charitable purpose and no beneficiaries.
 - Beneficiaries have **contractual** rights to enforce a foundation's operation in accordance with its constitutive document, rather than proprietary rights in its assets, or equitable rights such as are available to beneficiaries of trusts.
 - A foundation may have an adviser or protector if its rules so provide. If so, its rules will set out his role and powers, which may include the appointment or removal of council members, or beneficiaries, or the alteration of the foundation's constitution.

Recommendations

6.3 In order to provide choice and flexibility to the fiduciary sector, and therefore its clients, whilst allowing Guernsey to continue to meet international standards, the Department recommends that the States agree in principle to the introduction of foundations which will form the subject of a further detailed report. Such foundations to be introduced on the following lines:

- A foundation would come into existence on being entered on a public register. The essential elements of an application to enter would be copies of the foundation's charter, an application form and the prescribed fee. The register, which would be public, would show the names and addresses of the council members, the address of the registered office, and the purpose of the foundation.
- A foundation must have a registered office in Guernsey at which documents can be served.
- The mode of operation of a foundation's council would be governed by its rules and, in running the foundation, the council members should be subject to duties equivalent to those applicable to company directors. Council members who comply with those duties should not be liable for losses suffered by the foundation or third parties.
- Acting by way of business in connection with foundations should be a regulated fiduciary activity requiring licensing. This should include effecting or advising on the formation, management or administration of foundations, the provision of, or acting as, a council member, a founder, and providing a registered office.
- Foundations need to be brought within Guernsey's existing anti-money laundering regime so that obligations to verify identity are in line with those relating to trusts and companies. This would place obligations on the service provider.
- It should be possible for a Guernsey foundation to migrate to another jurisdiction where it will be recognised, and for a foundation formed elsewhere to become a Guernsey foundation (subject to meeting the requirements applicable to Guernsey foundations).
- A Foundation's terms should be enforceable by its beneficiaries or, if there are none, by H.M. Procureur. It may be necessary for the legislation to give the Royal Court a specific power to order specific performance of the foundation's terms, as the usual remedy in contractual situations is an award of damages.
- The demand for foundations appears to arise primarily from a need for structures which can be used in similar circumstances to traditional family trusts, but are familiar to clients and intermediaries with a civil law

background.

- The tax treatment of foundations would clearly be important and the Department recommends that they are, as far as possible, treated in the same way as trusts with Guernsey trustees.
- Legislation on foundations would need to state what are beneficiaries' rights to information.
- It is important that Guernsey foundations should not be attractive to potential founders whose aim in forming a foundation is to defraud their creditors and persons transferring assets to foundations should be in the same position, vis-à-vis creditors, as those transferring assets to a Guernsey trust.
- The Department recommends that foundations have 'open-ended' existence, subject to the ability to fix either a period or a mechanism for a foundation to come to an end. Given the separate legal personality of a foundation, it would need to be possible for it to be wound up and struck off the register, and insolvency aspects would involve consideration of whether it should be possible for a foundation to enter into administration.
- As foundations, unlike trusts, are legal entities and therefore should be entered on a public register, the costs of maintaining that register should be recovered through fees charged to the foundations.

7. Alderney and Sark

- 7.1 The 1989 Law applies only to Guernsey. The opportunity has been taken to consult the authorities in Alderney and Sark, inviting them to extend the legislation to their respective jurisdictions. The Department has received confirmation from the General Purposes and Finance Committee of Chief Pleas in Sark that they do not wish the law to apply to Sark. A response is awaited from the Policy and Finance Committee in Alderney.

8. Staffing and financial implications

- 8.1 There will be no adverse impact on staffing levels needed following enactment of the amendments, or the legislation enabling purpose trusts. The Department will be giving consideration to the charges required for the registration of foundations as and when they are enabled, which will be outlined when the further report is brought to the States.

9. Conclusions and recommendations

- 9.1 The specific proposals set out in this Report are supported by industry and the Department believes that they represent a necessary step in the evolution of the island's legislative framework. H.M. Procureur has been involved throughout and supports the Group's recommendations.

9.2 The Department recommends to the States to:

1. Approve the proposals for the general revision of the 1989 Law, as set out above in section 4 of this report.
2. Approve the amendment to the law to introduce purpose trusts, as set out in section 5 of this report.
3. Endorse the principle that foundations should be enabled by Guernsey legislation, in accordance with the broad principles in section 6 of this report, as an alternative or additional legal structure. Thereafter the Department would produce a further States Report to outline in detail how the foundation will operate within the new legislative framework.

Yours faithfully

Stuart Falla
Minister

APPENDIX 1**Trust Working Group**

The working group was established in 2005 to consider how to improve the law to facilitate business in the trusts sector. It published its report in July 2006.

The group consisted of various persons with expertise in this particular field namely

- Advocate Rupert Evans, Consultant, Ozannes, Guernsey
- Ian Burns, Chairman, Guernsey Association of Trustees
- Advocate Russell Clark, Partner, Carey Olsen, Guernsey
- Gavin St Pier, Managing Director, Walbrook Trustees (Guernsey) Limited
- Stephen Trevor, Director of Fiduciary and Intelligence Services, The Guernsey Financial Services Commission

The remit of the group was to respond and report on the following mandate,

“To investigate by consultation with trust professionals, lawyers, accountants and regulators, the requirement for changes to enable new trust ‘products’ and services to be available to the Fiduciary Sector in Guernsey. To consider the availability of competitor trust products and services from other jurisdictions. To consider the marketing requirement for the Fiduciary Sector. To make recommendations for the desired changes.”

APPENDIX 2**Cayman Trusts Law (2001 Revision)**

14. (1) The reservation or grant by a settlor of a trust of:
- (a) any power to revoke, vary or amend the trust instrument or any trusts or powers arising thereunder in whole or in part;
 - (b) a general or special power to appoint either income or capital of the trust property;
 - (c) any limited beneficial interest in the trust property;
 - (d) a power to act a director or officer of any company wholly or partly owned by the trust;
 - (e) a power to give binding directions to the trustee in connection with the purchase, holding or sale of the trust property;
 - (f) a power to appoint, add or remove any trustee, protector or beneficiary;
 - (g) a power to change the governing law and the forum for administration of the trust; or
 - (h) a power to restrict the exercise of any powers or discretions of the trustee by requiring that they shall only be exercisable with the consent of the settlor or any other person specified in the trust instrument,

shall not invalidate the trust or affect the presumption under section 13(1).

Part VII Trusts – Foreign Element

87 In this Part:

“dispose” and “disposition”, in relation to property, connote every form of conveyance, transfer, assignment, lease, mortgage, pledge or other transaction by which any legal or equitable interest in property is created, transferred or extinguished;

“formalities”, in relation to a disposition of property, means the documentary and other actions required generally by the laws of a relevant jurisdiction for all dispositions of like form concerning property of like nature, without regard to:-

- (a) the fact that the particular disposition is made in trust;
- (b) the terms of the trust;
- (c) the circumstances of the parties to the disposition; or
- (d) any other particular circumstances,

but include any special formalities required by reason that the party effecting the disposition is not of full age, is subject to a mental or bodily infirmity or is a corporation.

“heirship right” means any right, claim or interest in, against or to property of a person arising, accruing or existing in consequence of, or in anticipation of, that person’s death, other than any such right, claim or interest created by will or other voluntary disposition by such person or resulting from an express limitation in the disposition of the property to such person;

“personal relationship” includes every form of relationship by blood or marriage, including former marriage, and in particular a personal relationship between two persons exists if:-

- (a) one is the child of the other, natural or adopted (whether or not the adoption is recognised by law), legitimate or illegitimate;
- (b) one is married to the other (whether or not the marriage is recognised by law);
- (c) one cohabits with the other or so conducts himself or herself in relation to the other as to give rise in any jurisdiction to any rights, obligations or responsibilities analogous to those of parent and child or husband and wife ; or
- (d) personal relationships exist between each of them and a third person, but no change in circumstances causes a personal relationship, once established, to terminate; and

“settlor”, in relation to a trust, means and includes each and every person, who directly or indirectly, on behalf of himself or on behalf of any other or others, as owner or as the holder of a power in that behalf, disposes of property to be held in such trust or declares or otherwise creates such trust.

88. This Part applies to every trust and every disposition of property in trust made before, on or after the 31st May 1987, whether such property is situate in the Islands or elsewhere.
89. (1) In determining the governing law of a trust, regard is first to be had to the terms of the trust and to any evidence therein as to the intention of the parties; and the other circumstances of the trust are to be taken into account only if the terms of the trust fail to provide such evidence.
- (2) A term of the trust expressly selecting the laws of the Islands to govern the trust is valid, effective and conclusive regardless of any other circumstances.
- (3) A term of the trust that the laws of the Islands are to govern a particular aspect of the trust or that the Islands or the courts of the Islands are the forum for the administration of the trust or any like provision is conclusive evidence, subject to any contrary term of the trust, that the parties intended the laws of the Islands to be the governing law of the trust and is valid and effective accordingly.
- (4) If the terms of a trust so provide, the governing law of the trust may be changed to or from the laws of the Islands provided that:-
- (a) in the case of a change to the laws of the Islands, such change is recognised by the governing law of the trust previously in effect; or
- (b) in the case of a change from the laws of the Islands, the new governing law would recognise the validity of the trust and the respective interests of the beneficiaries.
- (5) A change in governing law shall not affect the legality or validity of, or render any person liable for, any thing done before the change.
90. All questions arising in regard to a trust which is for the time being governed by the laws of the Islands or in regard to any disposition of property upon the trusts thereof including questions as to:-
- (a) the capacity of any settlor;
- (b) any aspect of the validity of the trust or disposition or the interpretation or effect thereof;
- (c) The administration of the trust, whether the administration be conducted in the Islands or elsewhere, including questions as to the powers, obligations, liabilities and rights of trustees and their appointment and removal; or

- (d) The existence and extent of powers, conferred or retained, including powers of variation or revocation of the trust and powers of appointment, and the validity of any exercise thereof,

are to be determined accordingly to the laws of the Islands, without reference to the laws of any other jurisdictions with which the trust or disposition may be connected.

Provided that this section:-

- (i) does not validate any disposition of property which is neither owned by the settlor nor the subject of a power in that behalf vested in the settlor, nor does this section affect the recognition of foreign laws in determining whether the settlor is the owner of such property or the holder of such a power;
 - (ii) takes effect subject to any express contrary term of the trust or disposition;
 - (iii) does not, as regards the capacity of a corporation, affect the recognition of the laws of its place of incorporation;
 - (iv) does not affect the recognition of foreign laws prescribing generally (without reference to the existence or terms of the trust) the formalities for the disposition of property;
 - (v) does not validate any trust or disposition of immovable property situate in a jurisdiction other than the Islands which is invalid according to the laws of such jurisdiction; and
 - (vi) does not validate any testamentary trust or disposition which is invalid according to the laws of the testator's domicile.
91. Subject to the same provisos as are set out in paragraphs (i) to (vi) of section 90, it is expressly declared that no trust governed by the laws of the Islands and no disposition of property to be held upon the trusts thereof is void, voidable, liable to be set aside or defective in any fashion, nor is the capacity of any settlor to be questioned, nor is the trustee, any beneficiary or any other person to be subjected to any liability or deprived of any right, by reason that:-
- (a) the laws of any foreign jurisdiction prohibit or do not recognise the concept of a trust; or
 - (b) the trust or disposition avoids or defeats rights, claims or interests conferred by foreign law upon any person by reason of a personal relationship to the settlor or by way of heirship rights, or contravenes any rule of foreign law or any foreign judicial or administrative order or

action to recognise, protect, enforce or give effect to any such rights, claims or interests.

92. An heirship right conferred by foreign law in relation to the property of a living person shall not be recognised as:
- (a) affecting the ownership of immovable property in the Islands or movable property wherever situate for the purposes of paragraph (i) of section 90 or for any other purpose; or
 - (b) constituting an obligation or liability for the purposes of the Fraudulent Dispositions Law (1996 Revision) or for any other purpose.
93. A foreign judgment shall not be recognised, enforced or give rise to any estoppel insofar as it is inconsistent with section 91 or 92.
94. (1) This Part does not render any person liable for any thing done before 31st May, 1987.
- (2) Sections 91, 92 and 93 apply to every trust and every disposition of property in trust made before, on or after the 7th August, 1995, whether such property is situate in the Islands or elsewhere.

(NB The Policy Council supports the proposals.)

(NB The Treasury and Resources Department supports the proposals.)

The States are asked to decide:-

VIII.- Whether, after consideration of the Report dated 27th October, 2006, of the Commerce and Employment Department, they are of the opinion:-

1. To approve the proposals for the general revision of the Trusts (Guernsey) Law, 1989, as amended, as set out above in section 4 of that Report.
2. To approve the amendment to the law to introduce purpose trusts, as set out in section 5 of that report.
3. To endorse the principle that foundations should be enabled by Guernsey legislation, in accordance with the broad principles in section 6 of that Report, as an alternative or additional legal structure and to direct the Commerce and Employment Department to produce a further States Report to outline in detail how the foundation will operate within the new legislative framework.
4. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

COMMERCE AND EMPLOYMENT DEPARTMENT**AMENDMENTS TO FINANCIAL SERVICES LEGISLATION**

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

9th November 2006

Dear Sir

A. Executive Summary

- 1 The Commerce and Employment Department is proposing a minor amendment to the Projet de Loi entitled The Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006, so that amendments to the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000 by Ordinance of the States of Guernsey would require the consent of the Chief Pleas of Sark and the States of Alderney before having effect in those two Islands respectively.

B. Amendments to Financial Services Legislation

2. At their July 2006 meeting, the States considered a Report of the Commerce and Employment Department, a copy of which is attached, and then approved the Department's proposals, the effect of which would be to make the following four items of financial services legislation amendable by Ordinance of the States of Guernsey.
 - The Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended ("FSCL");
 - The Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended ("PoIL");
 - The Banking Supervision (Bailiwick of Guernsey) Law, 1994 ("BSL"); and
 - The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000 ("RoFL");

The background to the Department's proposals is clearly set out in that Report.

3. In mid-June, 2006, the Department wrote to the authorities in Alderney and Sark – the Policy and Finance Committee of the States of Alderney and the General Purposes and Finance Committee of the Chief Pleas of Sark – in relation to the proposals, and inviting their comments. The fact of this consultation with these Bailiwick authorities was referred to in the Report, and by the time it was laid before the States on 26th July, 2006 no adverse comment had been received by the Department from the authorities of either Island.
4. Upon the States resolving to approve the proposals contained in the Report, the Law Officers proceeded to draft the requisite Bailiwick-wide *Projet de Loi* to give them effect, and that legislation – the Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006 – was laid before, and approved by, the States at its meeting on 27th September, 2006. Subsequently, the *Projet de Loi* was transmitted to the authorities in Alderney and Sark for consideration by their respective legislatures, in the case of Sark the Michaelmas meeting of the Chief Pleas to be held on 4th October, 2006.
5. Following publication of the agenda and papers for that Michaelmas meeting of the Chief Pleas, the Sark Association of Corporate Administrators made representations to the General Purposes and Finance Committee objecting to those provisions of the *Projet de Loi* which conferred power on the States of Guernsey, by Ordinance, to amend the aforementioned Bailiwick-wide financial services legislation, notwithstanding the requirement clearly set out in the *Projet de Loi* for prior consultation with the General Purposes and Finance Committee. In the events which occurred, and following a meeting with the Sark authorities, the *Projet de Loi* was withdrawn from the Michaelmas meeting of the Chief Pleas, and also subsequently from the meeting of the States of Alderney at which the draft was also to be considered.

C. Fiduciary and Company Administration Business - Sark

6. It is here necessary to put Sark's position in the Bailiwick's financial services sector in perspective. Guernsey's financial services sector comprises four principal components: banking; investment fund and investment related business; fiduciary and company administration business; and insurance and insurance related business. Alderney's financial services sector has limited activity in some of these areas but is essentially an adjunct to the Guernsey sector. Sark on the other hand has no banks, no investment funds or fund managers or investment business licensees; and no insurance companies or insurance brokers or insurance intermediaries; but it does have some two full fiduciary licensees and some eight personal fiduciary licensees, licensed under RoFL. There are two bank offices in Sark, which function as sub-branches of Guernsey licensed banks; neither is treated for legal or regulatory purposes as distinct from their respective Guernsey branches, bank accounts with Sark's sub-branches being effectively accounts maintained with Guernsey banks. Thus the

only component of the Bailiwick's financial services sector in which Sark individuals and businesses participate is that regulated by RoFL.

7. When RoFL was being developed in the late 1990s, the Guernsey Financial Services Commission, which was leading on the matter, acknowledged that fiduciary and company administration business was of particular importance to Sark, providing as it did employment and economic benefit. The Sark authorities, conscious of the need for Sark to drive out bad business and to enable those businesses and individuals with the requisite knowledge, skill and probity to continue in business, supported regulation by the GFSC of fiduciary and company administration business. As a result of the subsequent licensing process, a significant number of Sark corporate service providers have moved elsewhere, and a significant number of Sark directors have ceased to provide their services as such.
8. RoFL presently does not enable general amendment by Ordinance, but does provide for potential amendment by Regulations of the GFSC, in the following instances, but only with the prior consent of the General Purposes and Finance Committee of Chief Pleas and the Policy and Finance Committee of the States of Alderney:
 - prescribing activities regulated by RoFL;
 - prescribing activities exempt from the scope of RoFL;
 - prescribing minimum criteria for licensing.

So the principle of consent in relation to aspects of RoFL had already been established in those limited instances.

9. Furthermore, certain RoFL matters prescriptible by Regulations of the GFSC can only be made after consultation with the Alderney and Sark authorities (i.e. consent is not required), including the issue, form and content of advertisements, and provisions relating to accountants and auditors.
10. The Advisory and Finance Committee and the GFSC, responsible for progressing RoFL through the legislative process, accepted that Sark and Alderney were particularly affected by its provisions, and so certain matters requiring their respective consents, rather than mere consultation, were conceded, in recognition of the importance of that business to them, particularly to Sark.

D. Current Proposals

11. Following further consultations with the authorities in Sark and Alderney, and having regard to the particular importance of fiduciary and corporate administration business in Sark, the Department has reconsidered its position in

relation to general amendment of RoFL by Ordinance of the States. The Department now proposes to the States that its original proposals in relation to FSCL, PoIL, and BSL, should stand, i.e. in respect of these three Laws, that the States of Guernsey should have power by Ordinance to amend this legislation throughout the Bailiwick, but only after consultation with the General Purposes and Finance Committee of the Chief Pleas of Sark, and the Policy and Finance Committee of the States of Alderney; but in the case of RoFL, that the States of Guernsey may only make an amending Ordinance having effect in Sark and Alderney with the consent of the Chief Pleas of Sark and the States of Alderney.

12. The Department is advised that the authorities in Sark welcome the Department's acceptance of the principle of consent of the Chief Pleas of Sark to amendment of RoFL. The authorities in Alderney have likewise been consulted and the Department is pleased to report that they too are content with the Department's proposals as described in this Report.
13. The Department is anxious to progress the amending legislation, approved in principle by the States in July 2006, without delay subject to the concession to Sark and Alderney set out above, in particular to enable legislation to be progressed to enable the Bailiwick to receive a favourable IMF assessment in May 2008. Accordingly, with the consent of the Bailiff, the Department will lay before the States the revised Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006, together with this Report. It is anticipated that the Chief Pleas of Sark will consider for approval the revised Projet de Loi at their January meeting, and that the States of Alderney will likewise consider it for approval in January.

E. Recommendations:

The Department therefore recommends the States:

- (a) to rescind their Resolution on Article II of Billet d'État No. XVI of 2006;
- (b) to note the contents of this Report;
- (c) to approve the Projet de Loi entitled The Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006.

Yours faithfully

Stuart Falla
Minister

COMMERCE AND EMPLOYMENT DEPARTMENT

AMENDMENTS TO FINANCIAL SERVICES LEGISLATION

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

14th June 2006

Dear Sir

1. Executive Summary

Securing the future of the Bailiwick as a successful centre for financial services will depend in part on the ability to constantly adapt legislation in order to remain globally competitive and respond to emerging standards of regulation.

The four pieces of legislation which underpin financial services are each embodied in a Projet de Loi, with the result that even relatively minor amendments cannot be made without a long and cumbersome process. Accordingly, this report recommends the enactment of a single Projet de Loi which will enable the States to amend the following finance sector legislation by way of Ordinance:

- The Financial Services Commission (Bailiwick of Guernsey) Law, 1987;
- The Banking Supervision (Bailiwick of Guernsey) Law, 1994;
- The Regulation of Fiduciaries, Administration Business and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000;
- The Protection of Investors (Bailiwick of Guernsey) Law, 1986.

2. Background

The Department, together with the Guernsey Financial Services Commission, constantly monitors global developments in regulatory legislation in order to ensure that:

- Guernsey institutions and businesses are enabled to operate competitively; and
- Guernsey remains established as a premier financial services jurisdiction with legislation reflecting emerging standards and practices to counter money laundering, financial crime and terrorist financing.

As a consequence of this monitoring, coupled with consultation with the industry, the Department is able to consider legislative initiatives designed to increase the level of business attracted to the Island, facilitate the introduction of new projects and enhance the industry's competitiveness abroad.

The ability to amend legislation and respond promptly and appropriately for Guernsey's benefit is an integral part of achieving continued success within the finance sector. However, in the case of the four pieces of regulatory legislation set out above, the fact that they are each embodied in a separate *Projet de Loi*, makes the process of change cumbersome and time consuming. Accordingly, following recommendations from H M Procureur, the Department believes that it will be beneficial for the States to be in a position to amend, by Ordinance, such legislation in order to ensure that the Bailiwick's regulatory regime reflects appropriate and promptly domestic and international developments.

In this respect, the financial services sector acknowledges that continued engagement and participation with international regulatory bodies is crucial to the development of their industry. Part of the engagement process demands the ability to adapt quickly to developments in the global market in which the industry operates to maintain our reputation as a leading financial services centre.

3. Proposed amendments

The legislation identified above contains no provisions which enable the States generally to amend them respectively by Ordinance, though limited aspects of them may be so amended. Therefore, the only method by which they can be amended is by a further *Projet de Loi*, which has proved time-consuming, and is further complicated by the necessity of obtaining an Order in Council, through the Privy Council which only meets on a few occasions each year. This process has, in some cases, taken up to a year, which the Department believes could be detrimental to Guernsey if it were necessary or expedient that an amending *Projet de Loi* be enacted as a matter of urgency, particularly in response to developing international compliance standards.

Relevantly, the International Monetary Fund (IMF) is expected to conduct its second assessment of Guernsey in 2008. It is anticipated that for this assessment to be positive (and such an assessment is crucial to Guernsey maintaining its position in the premier league of finance centres), there will require to be progressed an extensive legislative programme. For example, new laws will be required to ensure compliance with the Third European Money Laundering Directive. The Department considers that the proposed enabling legislation will allow the States to respond more rapidly to the

anticipated requirements of that review, and to other reviews or assessments as they may occur.

The Department proposes that the enabling legislation will apply throughout the Bailiwick, but before any amending Ordinance were to be proposed to the States, the Department would consult with the Policy and Finance Committee of the States of Alderney and the General Purposes and Finance Committee of the Chief Pleas in Sark.

4. Consultation

Consultation has taken place with representatives of the financial services industry through the Financial Services Group and H M Procureur and the Guernsey Financial Services Commission. The authorities in Alderney and Sark have also been consulted. There is widespread support for this approach.

5. Staffing and Financial Implications

The proposals contained in this report will have no direct financial impact upon the Department and will be administered with existing staff.

6. Recommendations

The Department fully endorses the proposed amendments and believes that they are necessary for the improvement and development of the financial services sector in the Bailiwick.

Yours faithfully

Stuart Falla
Minister

(NB The Policy Council supports the proposals.)

(NB The Treasury and Resources Department has no comment on the proposals.)

The States are asked to decide:-

IX.- Whether, after consideration of the Report dated 9th November, 2006, of the Commerce and employment Department, they are of the opinion:-

1. To rescind their Resolution on Article II of Billet d'État No. XVI of 2006.
2. To note the contents of that Report.
3. To approve the Projet de Loi entitled "The Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

ORDINANCE LAID BEFORE THE STATES

**THE LEBANON (RESTRICTIVE MEASURES)
(GUERNSEY) ORDINANCE, 2006**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Lebanon (Restrictive Measures) (Guernsey) Ordinance, 2006, made by the Legislation Select Committee on the 30th October, 2006, is laid before the States.

EDUCATION DEPARTMENT

ELIZABETH COLLEGE - PRINCIPAL'S ANNUAL REPORT 2005/06

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

9th October 2006

Dear Sir

I enclose the annual report of the Principal of Elizabeth College for the academic year 2005/2006. I would be grateful if you would arrange for the report to be published as an appendix to the Billet d'État for December 2006.

Yours faithfully

D P Le Cheminant
Member

ELIZABETH COLLEGE



The Principal's Annual Report of the general state of the College, the number of scholars and the course of education pursued in the academic year 2005/2006 addressed to the Board of Directors of Elizabeth College.

For onward transmission by them to His Excellency, the Lieutenant Governor and Commander-in-Chief, Vice Admiral Sir Fabian Malbon, KBE and to the Bailiff of Guernsey.

PRINCIPAL'S REPORT

Summaries of the AS and A2 examination results appear elsewhere in this report. It was particularly pleasing that the high pass rate of the last four years was maintained. Indeed, the percentage of A - C grades, which between 2002 and 2005 rose sharply from 65% to 85% remained high at 84%. Eleven Upper Sixth formers gained the equivalent of three or more A2 A grades. Over 75% of the Upper Sixth also obtained AS level qualifications. The average points score per candidate exceeded 300 for only the second time in College's history; this is the equivalent of every candidate achieving better than BBB in three A2 levels. College also offers four subjects as stand-alone AS levels; the results were very good with 100% pass rate of which 93% were at grades A-C. College delivered A2 courses for a number of Ladies' College girls. Within this group there was a 100% pass rate, with 80% at grades A - C.

The GCSE results were therefore fulfilling our expectations of these pupils. A number of measures show these to be fine results: the pass rate at grades A-C was 94.5%, College having previously exceeded 90% on only two other occasions; the overall pass rate, A-E, was 100%. The average points score per candidate was 63.4; as the statistic is calculated with A* = 8 points, an A = 7 etc 64 points would equal every single pupil in the year achieving eight A* grades. Of all entries 22% resulted in an A* grade, substantially the best figure College has ever achieved, moreover almost half of all entries resulted in grades A* or A. Across the entire cohort the results average out over 9.25 A*-C grade passes per pupil. Three pupils gained 11 A* passes plus an A; a further ten passed 10 subjects at A* or A. Overall 20 pupils (in the cohort of just 58) gained seven or more passes at A* or A.

The results at both GCSE and A level reflect the hard work and application of our students. They also reflect the commitment and professionalism of College staff. As ever the year saw a degree of staff turnover. In July we said goodbye to Mr Brooks, Miss Hedges and, after a remarkable 33 years of service to College, Mr Rahman.

There were also changes in other section of College. Most notably Mrs Beryl Amy retired after ten years as Head of Acorn House. Being a founding head of a school remains one of the greatest challenges in education. There is no doubt that the current success of the Acorn House owes much to her leadership, dedication and vision.

At the end of September 2005 we marked the 60th anniversary of the restart of College after the period of exile during the Second World War. At a reception held to mark this event we welcomed a number of representatives of the Whitehall and Great Hucklow generations. To help our pupils gain a sense of this period in College's history two Old Elizabethans spoke to the school. They gave the boys an incomparable insight into what the evacuation, exile and subsequent return really meant.

In a Guernsey Press article about College in exile Mr H. Winterflood wrote,

“The exile in Derbyshire.....arguably represents the time when College came closest to extinction since it was refounded in 1824.”

It is important to appreciate that the exile achieved not just the physical continuance of the school, but of equal importance, the maintenance of College's identity. Cicero wrote that,

“Not to know what happened before you were born is to remain forever a child.”

I believe that it is the same for a school and that by maintaining links to our history we better understand the key events that have shaped our ethos. The year also saw another affirmation of these links with the dedication of the College Book of Remembrance, recording the fallen of the two World Wars. To compliment this the two war memorials in the main hall were regilded; I am grateful to the Friends and OEA who funded these two initiatives.

In July we celebrated the 100th anniversary of College's first involvement in Bisley. College has a long, proud and successful history in the Ashburton, the public school's shooting competition, including victory in 1989. Shooting epitomises College's commitment to provide extra-curricular opportunities for our pupils. It is a sport that few island boys outside College have the opportunity to pursue, moreover we have a long history of doing it very well, reaching national and international standards. For example we have a record of producing members of the GB Cadet Shooting team and in this regard I am very pleased that an U6th leaver, Peter Knight, shot as an Atheling in Canada this summer. Over the years competing at Bisley has been a wonderful experience for boys and for many has been just the start of long and successful shooting careers. It is my earnest hope that this continues to be the case for the next 100 years. My thanks go to the OEA for all their support for College shooting.

Notable pupil achievements and sporting successes are listed in Annexe B but a few are worthy of special mention. In the Public Schools' Fencing Championships held at Crystal Palace in April, we placed a highly commendable 3rd. In the English Schools' National Freestyle Relay Finals our Intermediate Swimming Team came second. Later in the Lent Term Thomas Hollingsworth and Jeremy Osborne swam for Guernsey in the Commonwealth Games held in Melbourne.

In recent years successive Senior Prefects have done a fine job in bringing into being our school council. A key role of this council is the organisation of College charity events and a record of these and monies raised is contained in Annexe B. The year also saw two major Drama productions, playing to large and appreciative audiences. It was wonderful to see so much talent across the age range, especially as College now offers a GCSE drama option. The year's music concerts all reached high standards and it is heartening to see choir numbers the healthiest for some years. Fuller information on the College music and drama is contained at the end of this report.

Dr N D Argent
Principal

NUMBERS AND ENTRY

	Entries to College		Numbers at College	
Acorn House Pre-School	2005/2006	2006/2007	2005/2006	2006/2007
Wren and Kingfisher Classes	43	37	110	104
Acorn House	2005/2006	2006/2007	2005/2006	2006/2007
Reception	27	27	27	27
Year 01	-	-	30	27
Year 02	2	2	34	32
Total	29	29	91	86
Beechwood	2005/2006	2006/2007	2005/2006	2006/2007
Year 03	3	2	34	32
Year 04	1	-	31	33
Year 05	1	-	39	29
Year 06	1	2	28	41
Total	6	4	132	135
Upper School	2005/2006	2006/2007	2005/2006	2006/2007
Year 07	47	45	80	68
Year 08	1	1	64	79
Year 09	1	1	67	62
Year 10	1	2	75	69
Year 11	-	-	58	74
L6 th	2	-	61	46
U6 th	-	-	56	58
Total	52	49	461	456

Academic Achievements: University places for 2006 were offered to:

NAME	READING	AT
ANGLISS, John	Politics	University of London
BARRASIN, Thomas	Psychology	Exeter University
BISSON, Huw	Social Policy/Sociology	Leeds University
CHILTON, Michael	Film Studies	Southampton University
CHRISTOPHER, Guy	Creative Music Technology	Huddersfield University
COPELAND, Matthew	History	Sussex University
CREASEY, Benjamin	Marine Sport Science	Plymouth University
DOREY, Jonathan	Civil Engineering	Swansea University
FULLER, Duncan	Art Foundation	University of the West of England
GIBBS, Toby	Air Transport Operations	City University
GRANT, Samuel	English/History	Aberystwyth University
GRIMES, Philip	Art Foundation	University of the West of England
HIGGS, Kieran	Maritime Operations	Southampton University
HOLLINGSWORTH, Thomas	Oceanology	Norwich University
HUTCHINSON, Bryan	Law and Philosophy	Essex University
JAMES, Benjamin	Economics and Politics	Warwick University
LONGAN, David	History	Bristol University
MAHONEY, Nick	Physiotherapy	Cardiff University
MANN, Jake	Medicine	Birmingham University
MAUGER, Luke	Actuarial Science	Kent University
McCARTHY, John	Psychology & Criminology	Portsmouth University
MONKHOUSE, Benjamin	Business Management	Nottingham University
KNIGHT, Peter	War Studies	Swansea University
OCKLEFORD, Piers	Psychology and Soccer	Florida Institute of Technology
PARISH, Samuel	Architecture	Bath University
PARKER, Michael	Computer Sciences	Brighton University
PAYNTER, Craig	Law	Durham University
RUDD, Richard	Marketing	Plymouth University
SIMS, Peter	Aerospace Engineering	Hertfordshire University

TAYLER, Peter	Film and Business Studies	Oxford Brookes University
THOUME, Christopher	Civil Engineering	Bath University
VERNON, Daniel	English with Spanish	Leeds University
WEBSTER, Matthew	Oceanography	Southampton University
WILKES-GREEN, Jonathan	Geography	Durham University
WRIGLEY, Damian	History	Kent University

University places for September 2007 were offered to the following:

NAME	READING	AT
AYRE, Thomas	Film Studies	Exeter University
FERBRACHE, Benjamin	Sports Studies	Gloucester University
HALE, Christopher	Ancient History and Archaeology	Reading University
KENNEDY, Morgan	Film Studies	Portsmouth University
LE GALLAIS, Edward	Marketing and Public Relations	Lincoln University
RICHARDSON, Luke	Journalism	John Moore University

The performance of the following students in the 2005 A2 level examinations was outstanding and they have, therefore, been nominated by the Academic Board for scholarships, tenable for one year, at University during the academic year 2006/2007. The Board of Directors made the following awards:

De Saumarez Exhibition:

Adam Bayfield reading History at the University of Warwick

Mainguy Scholarship:

Alex Lehtinen reading Law at Cambridge University

Mansell Exhibition:

Gareth McCathie reading Molecular Biology at the University of Surrey

Mignot Scholarship:

Arrian Green reading Medicine at the University of Manchester

Queen's Exhibition:

Adam Goodall reading Mathematics at the University of Durham

STAFF APPOINTMENTS

Upper School

From September 2006 Miss Karine Labbé joined to teach Modern Foreign Languages. A graduate of the Université du Maine, Le Mans, she took her PGCE at Manchester Metropolitan University and has worked in UK state schools.

From September 2006 Mr Wesley joined us to teach DT. A graduate of Nottingham Trent University he joins us as an NQT, having just completed his PGCE.

From September 2006 Mrs Stevenson joined College for one year to teach French plus junior History and Classics. She was familiar to pupils having covered in College during the 2005/6 academic year.

Beechwood

Miss Katie Parrott joined in September 2006 as Year 5 class teacher. A graduate of the University of Surrey, she has previously worked at Hautes Capelles Infant School.

Acorn House

From September 2006 Mrs Julie Veron was appointed Head of Acorn House. She is a graduate of the University of Birmingham and was previously Deputy Head at Hautes Capelles Infant School.

STAFFING: INTERNAL POSTS

Senior Management Team	
VICE PRINCIPAL	S.G.D. Morris
DIRECTOR OF STUDIES	A.R. Cross
HEAD OF SIXTH	R.J.W. James

Year Heads		Faculty Heads	
Year 07	B.E.H. Aplin	Head of English	R.J.W. James
Year 08	A.M. Jewell	Head of Mathematics	A. Hale
Year 09	M.E. Kinder	Head of Science	G. Guilbert
Year 10	B.W. Allen	Head of Modern Languages	Mrs M.C. Dudley
Year 11	D.F. Raines	Head of Humanities	C.R.W. Cottam
Year 12 (L6 th)	R.J.W. James	Head of Social Sciences	S. Huxtable
Year 13 (U6 th)	R. Le Sauvage	Head of Fine Arts & Craft	Mrs P. Maher
		Head of Physical Education	D. Wray

Annexe A**GCSE RESULTS**

Year	No. of Candidates	Average Points per Candidate
2006	58	63.14
2005	70	64.50
2004	68	56.90
2003	78	53.00
2002	70	54.70
2001	68	54.37
2000	66	52.62
1999	77	54.42
1998	80	53.94
1997	86	53.15
1996	91	51.54
1995	74	53.07

A-LEVEL RESULTS

To maintain comparability the old UCAS points system has been retained
(A = 10 points, B = 8 points etc.)

Year	No. of Candidates	Average Points per Candidate
2006	55	24.26
2005	55	22.50
2004	52	24.27
2003	57	21.05
2002	47	19.44
2001	38	16.53
2000	53	19.55
1999	72	17.44
1998	69	16.93
1997	58	20.97
1996	65	20.58
1995	78	17.64

Annexe A**ELIZABETH COLLEGE****Year 11 GCSE RESULTS 2006: SUBJECT GRADES**

(Grades achieved by number of pupils)

Subject	N^o. of Entries	A*	A	B	C	D	E	F
Art	19	6	5	7	1	-	-	-
Business Studies	22	2	4	6	7	3	-	-
Biology	19	14	4	1	-	-	-	-
Chemistry	19	10	5	3	1	-	-	-
Classics	7	2	1	4	-	-	-	-
DT Graphics	11	-	7	3	1	-	-	-
DT Materials	17	-	5	4	7	1	-	-
English	58	9	12	18	12	7	-	-
E Literature	42	7	5	20	10	-	-	-
French	43	4	9	13	15	2	-	-
Geography	23	11	6	5	1	-	-	-
German	7	1	2	1	3	-	-	-
History	29	6	9	11	2	-	1	-
ICT	11	-	4	4	2	1	-	-
Latin	5	3	1	1	-	-	-	-
Maths	58	12	17	23	4	2	-	-
Music	9	2	2	4	1	-	-	-
PE	12	3	4	4	1	-	-	-
Physics	19	12	3	4	-	-	-	-
RS	58	16	17	10	3	10	2	-
Science (DA)	78	6	22	20	28	2	-	-
Spanish	14	1	4	2	5	2	-	-
Statistics	19	5	14	-	-	-	-	-
Totals	599	132	162	168	104	30	3	-

Annexe A**ELIZABETH COLLEGE****Upper 6th (Yr 13) A2 RESULTS 2006: SUBJECT GRADES**

(Grades achieved by numbers of pupils)

Subject	N^o. of Entries	A	B	C	D	E	U
Ancient History	4	1	2	1	-	-	-
Art	7	5	1	-	1	-	-
Biology	12	3	3	2	4	-	-
Business Studies	19	4	6	4	2	3	-
Chemistry	2	1	-	1	-	-	-
DT Graphics	4	1	1	1	1	-	-
DT Materials	4	-	3	-	1	-	-
Drama	4	-	3	-	1	-	-
Economics	4	2	2	-	-	-	-
English Literature	12	4	1	5	2	-	-
French	1	-	-	1	-	-	-
Geography	11	4	5	2	-	-	-
German	2	-	2	-	-	-	-
History	12	3	4	5	-	-	-
ICT	5	2	1	1	-	1	-
Mathematics	14	8	4	2	-	-	-
Further Mathematics	1	1	-	-	-	-	-
Music	2	-	-	-	1	1	-
PE	8	2	1	3	1	1	-
Physics	9	3	2	2	-	2	-
Religious Studies	6	4	1	-	1	-	-
Spanish	1	1	-	-	-	-	-
Totals	144	49	42	30	15	8	-

Upper 6th (Yr 13) AS RESULTS 2006: SUBJECT GRADES

(Grades achieved by number of pupils)

<u>Subject</u>	No. of Entries	A	B	C	D	E	U
Film Studies	11	7	4	-	-	-	-
Music Technology	3	2	-	1	-	-	-
Photography	9	5	3	1	-	-	-
Psychology	7	1	2	2	1	1	-
Totals	30	15	9	4	1	1	-

Annexe B**SPORTING ACHIEVEMENTS DURING 2005/2006**

GAME	PLAYED	WON	DRAWN	LOST
Cricket	14	7	1	7
Hockey	18	7	3	8
Soccer	15	6	1	8
Athletics	1	0	0	1
Golf	1	0	0	1
Rugby	2	1	0	1

Senior Victoria Matches

Cricket Lost by 3 wickets
Shooting Lost by 740 to 741
Tennis Won 5 - 4
Athletics Lost VC104-EC56

Golf Lost 1 - 7
Hockey 1st XI Won 4 - 1
Soccer Won 5 – 3 (h)
Lost 1 – 2 (a)
Rugby Won 12 - 7

Other Pupil Achievements

Michaelmas Term 2005

- The football 1st XI beat Victoria College, 5 - 3, with Jonathan Wilkes-Green, Year 13, and Oliver Richards, Year 12, both scoring twice.
- Scott Benest, Year 13 leaver, shot particularly well at Bisley in July placing 3rd in the Grand aggregate. Jonathan Willcocks (Year 12) placed 2nd in the Cadet Reserve.
- A number of boys competed for Guernsey in the Island Games held in Shetland in July; Sam Shields (Squash), Tom Hollingsworth (Swimming) both Year 12 and Jeremy Osborne (Swimming) Year 11.
- College boys were involved in the 31st Elizabeth College Summer Orchestral Course, which culminated in three excellent concerts at St James.
- The College Senior Tennis team defeated Victoria College by 5 - 4.
- The CCF team placed first, out of 20 teams, in the SW District Skill-at-Arms Competition.
- The following boys received their Duke of Edinburgh Awards in the term:
Silver- Christopher Paluch, Karim Arstall, both Year 12.
Bronze- Alex Evans, James Dickinson, Pierre Petit, James Ferbrache, Ben Jones, Tom Rushton, all Year 11.
- The following received Royal Life Saving Society Awards in the term:
Award of Merit and Life Support 2 Ben Backhouse, Year 11.
Bronze Medallion and Life Support 1 Ben Jones, Alex Evans, David Du Port, all Year 10.
- The boys performed admirably in the Winter Concert, giving us a hugely varied and enjoyable evening.
- Year 12 boys entered the Chartered Institute of Taxation's essay competition on filling the economy's "black hole". They were very successful: Nick Human won the best technical response, with Jason Lacey runner up. Jack Byrne won the most creative category, with Etienne Heaume runner up.
- George Thompson, Year 8, was equal first in the RBC Young Sailor Competition, the best placing ever achieved by an Optimist sailor.
- A number of boys took part in the Island Schools' Cross-Country. College won both the Years 7 & 8 and the Years 9 & 10 competitions, with our B team placing third in the Years 9 & 10 competition.

- Two recently departed ex-College students, Timothy Battey and Stephen Morris, received Gold Duke of Edinburgh Awards at St James's Palace.
- The Year 8 football team won the Island Schools' League.
- The 1st XI football team enjoyed a 7-1 victory over the Grammar School with Jonathan Wilkes-Green, Year 13, scoring a hat trick.
- In October the College A Team won the Island Schools' team Foil event. In the Island Schools' individual championships in November the following were successful:
 - * U14 Foil Champion, Pierre Ozanne, Year 10
 - * U18 Foil & Epee Champion, Sam Parish, Year 13
 - * U18 Sabre Champion, Tom Miller, Year 11
- There were significant contributions to charities in the term. We raised over £380 for Jeans for Genes Day, well over £1150 for Children in Need and £308 on Poppy Day. We also raised over £1700 for the Swimathon and Mr Allen received an award in recognition of his many years organising College teams for this event. Retiring collections at the end of term carol services raised £799 for the Khon Kaen Boys' Town in Thailand.

Lent Term 2006

- Our Intermediate swimming team of Jeremy Osborne and James Dickinson, both Year 11, Matthew Allen and Edward Dickinson, both Year 10, placed second in the English Schools' National Freestyle Relay Final held in February.
- Tom Hollingsworth, Year 13, and Jeremy Osborne, Year 11, were selected to swim for Guernsey in the Commonwealth Games.
- Peter Knight, Year 13, was selected for the Athelings, the GB Cadet shooting team, and will tour Canada in the summer. This was a timely achievement as 2006 marks the centenary of College's first Bisley appearance.
- Adam Briggs, Jonathan Edwards and Alex Maher, all Year 11, passed the NRA Advanced Skills course at Bisley in February.
- The College Hockey teams who had a clean sweep over Victoria College, the results were:

1st XI	won 4 - 1	2nd XI	won 6 - 1
U15	won 7 - 0	U14	won 2 - 0
- The College boys competed in the British Youth Fencing Championships. Alex Harlow, Year 10, finished 6th in the epee and Jamie Ellington, Year 12, is now ranked 11th in GB for U18 Sabre. In the National Foil Championships, Sam Parish, Year 13, and Alex Harlow placed 13th and 16th respectively.

- College boys competed in the Public Schools' Fencing Championships held at Crystal Palace in April, finishing a very creditable third overall.
- James Plumley, Year 12, won a prize in the fifth round of the University of Southampton National Cipher Challenge.
- Oliver Beaton and Dominic Lacey, Year 12, were awarded RAF Gliding Scholarships.
- The Hockey 2nd XI won the GHC Plate competition by beating Unwantables II on penalties in a very closely fought final.
- The Charities Committee organised a Fair Trade food and drink sales event near the end of the term. The event, run over two weeks, raised £342.

Trinity Term 2006

- On the Senior Sports Day the *victor ludorum* was Jonathan Guille, Year 12. His most notable performance was in breaking Dale Garland's Sports Day Triple Jump record with a leap of 13.20m.
- On the Junior Sports Day the *victor ludorum* in each age group were:

Year 10	Hywel Robinson
Year 9	William Bodkin
Year 8	Joshua Lewis
Year 7	Alex Falla
- A number of boys took part in the Island Schools' Sports and some subsequently represented Guernsey in the inter-island athletics match against Jersey Schools, with William Bodkin, Year 9, placing first in the both the 800m and 1500m.
- Our boys competed in the GRC Spring Prize meeting. Peter Knight, Year 13, was B Class grand aggregate winner and also won the Highfield Trophy. Alex Maher, Year 11, won the Shieling trophy. The shooting C team won their division of the BSSRA spring league postal event.
- Over Easter the College shooting team took part in a triangular match at Bisley. The match was shot using the army target rifle and College defeated Epsom College & Wellington.
- Matthew Webster, Year 13, completed his Gold Duke of Edinburgh Award.
- Two College teams completed the Ten Tors event in May, luckily experiencing better weather than in 2005.
- Tom Hollingsworth, Year 13, gained a gold medal in the British Long-Distance Swimming Association postal swim by swimming 5,130 m., well over 3 miles, in one hour.

- Dominic Lacey and Oliver Beaton, both Year 12, gained silver and blue “wings” respectively for gliding.
- A large number of boys, too many to list here, won prizes or were commended in this year’s Design-an-Ad ICT competition.
- Our Charities’ Day in May raised £664 for the Darfur refugee crisis. Many boys were involved including the senior prefects, who were “sponged”, and a number who fasted. The event was run by the Charities’ Co-ordinator, John Angliss, Year 13, and his team.
- Shooting At Bisley in the Ashburton, one of the most demanding of competitions for schools, College again finished in the top ten (9th). However, College were beaten by Victoria by the narrowest of margins (740 – 741), on literally the last shot of the match.

And ...

- Major Aplin, Officer Commanding Elizabeth College CCF, was promoted to Lt. Colonel. He also received the Royal Life Saving Society Service Cross, awarded in recognition of his longstanding and continued commitment to lifesaving, at a ceremony in July.

Review of the Musical Year, 2005-2006

With the Commemoration Service being moved to the beginning of the Academic Year, the Choir found itself thrown into a busy schedule within days of the start of term with the necessary rehearsals for this important event in the College Calendar.

Open Day, as usual, saw the first appearance of the College String Orchestra, Junior Wind Band and College Choir. The open rehearsals were followed with much interest by visitors as well as giving new boys an opportunity to settle into their roles without the pressure associated with a formal performance.

A small team of senior boys were included in the Band for the Drama production of 'Grease'. This was a particularly successful collaboration and bodes extremely well for the future.

The Winter Concert took place in the College Hall at the beginning of December and involved all of the College Ensembles as well as allowing some of our senior performers to offer various solos.

Just two weeks later, the College Choir led the Senior Carol Service at the Town Church. The following evening, at St James, the Junior Carol Service took place and was one of those occasions where the stage was full of performers. The wind, brass and string players together with the College Choir combined to give a truly festive finish to the term. Again, it was pleasing to note that so many of our students were able to participate on this occasion.

Due to the new Lieutenant-Governor's end of term schedule it was not possible for the College Choir to observe the traditional singing of carols at Government House this year. Instead they participated in an evening of music at Sausmarez Manor, which was greatly appreciated.

A new venture - that of the Faculty of Creative Arts Junior Exhibition Evening - saw the College Hall full of displays from the various departments within the Faculty. The opportunity was taken for various soloists to perform, which they did with considerable success.

The annual visit to St Malo by the College Choir followed its usual format with the Choir singing at two services over the weekend. Both the Saturday evening's performance at the Chapel of the Dominican Convent and the Sunday morning Mass in St Vincent's Cathedral went particularly well and the warmth of the welcome from the French congregations was greatly appreciated by the members of the Choir.

The Foundress's Day Concert is traditionally the highlight of the College musical year. Along with each school's own contributions, all the performers, some 180 pupils, came together on stage for the Grand Finale, which this year was music associated with the James Bond films.

In conclusion I would like to thank the tremendous support given throughout the year to College Music by Mrs Maher, Mr Cottam, Mr Cross and the invaluable members of the Schools' Music Service – and of course, the Boys!

Review of the College Drama, 2005-2006.

College presented two major productions once again this year. In November of 2005 Miss Flood and Mr James directed a hugely successful production of *Grease Lightning*. It had been many years since College embarked upon the production of a musical and it played to packed houses every one of its four nights. Mrs Maher directed the music and trained the singers, for many it was a first experience of solo singing. Miss Coubrough choreographed the dance numbers with considerable expertise. The live band in combination with the sophisticated lighting, designed and executed by young Old Elizabethan Alex Strachan, and Lower Sixth student, Andrew Degnen's, faultless sound support further injected atmosphere and energy into the production.

With the exception of one Ladies' College girl the female cast were sixth formers from Blancheland College. The whole school buzzed with the excitement of the production, further endorsed by the sight of the real car on stage and the boy song and dance number at assembly on the Friday prior to production. Boys in Years 7, 8 and 9 looked with awe towards the cast, hoping one day to aspire to such dizzy heights!

The success of the production has fired the desire to stage another musical in the Michaelmas Term of 2006 but as yet the choice of production is in the balance.

The second production was a junior school production in Trinity Term 2006. This was *Faust and Furious*, a modern play based upon Christopher Marlow's *Dr Faustus*. In this modern version of Faust, Faust's hell became the factory where he worked: Mephistopheles remained, as did the Seven Deadly Sins. The Good and Bad Angels became the Narrator, Tony and Ray respectively as they argued over Faust's conscience. Bored and frustrated by his life and job Faust found himself at the Body and Soul Disco where he met the mysterious Mephistopheles who made him into a pop star and presented him with offers he could not refuse. The message of the play was perfectly suited to modern materialistic, acquisitive and personality-driven society.

The production was full of humour. It included songs and music. A boy band mainly comprising boys in Year 9 who had written and performed their own material were back stage centre throughout. Cast singers were trained by Mr Harris who also played keyboards. Once again former pupil Alex Strachan provided a magnificent lighting design and gave us a week of his time gratis. The production involved forty boys from Years 7, 8, 9 and 10. Boys played girls parts, this suited the style of the production, which aimed to emphasize the grotesque aspects of human nature: the bridesmaids in particular were a source of much hilarity!

*APPENDIX II***PUBLIC SECTOR REMUNERATION COMMITTEE****STATES OF GUERNSEY PUBLIC SERVANTS' PENSION SCHEME:
2007 PENSIONS INCREASE**

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

24th October 2006

Dear Sir

In accordance with the States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment No. 2) Rules, 1997, approved by the States on the 29th October, 1997 (Article X of Billet d'Etat No. XIX of 1997), I would advise you that the Public Sector Remuneration Committee, after consultation within the Pensions Consultative Committee, has resolved that pensions in payment and preserved pensions and other benefits not yet in payment be increased with effect from 1 January 2007 as follows:

- | | | |
|--|----|---|
| (a) awarded prior to 1 January 2006 | by | 3.4% |
| (b) awarded in the period from 1 January 2006
to 31 December 2006 | by | 1/365th of 3.4% for each
day of entitlement |

(i.e. in line with the change in the Retail Price Index for the twelve months ending on 30 June 2006).

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

Yours faithfully

J P Le Tocq
Chairman

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 13TH DECEMBER 2006

The States resolved as follows concerning Billet d'État No. XXI
dated 24th November, 2006

HOME DEPARTMENT

**THE CRIMINAL JUSTICE (COMMUNITY SERVICE ORDERS)
(BAILIWICK OF GUERNSEY) LAW, 2006**

I.- After consideration of the Report dated 6th November, 2006, by the Home Department:-

1. To agree that the Courts should be enabled to make a community service order in respect of persons aged 14 years or over where convicted of an offence punishable with imprisonment
2. To approve the Projet de Loi entitled "The Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006" subject to the deletion of "16" in section 1 (1) and the substitution of "14" therefor, and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto."

PROJET DE LOI

entitled

THE SOCIAL INSURANCE (GUERNSEY) (AMENDMENT) LAW, 2006

II.- To approve the Projet de Loi entitled "The Social Insurance (Guernsey) (Amendment) Law, 2006" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE FOREIGN TAX (RETENTION ARRANGEMENTS)
(GUERNSEY AND ALDERNEY) (AMENDMENT) ORDINANCE, 2006**

III.- To approve the draft Ordinance entitled "The Foreign Tax (Retention Arrangements) (Guernsey and Alderney) (Amendment) Ordinance, 2006" and to direct that the same shall have effect as an Ordinance of the States.

S.M. D. Ross
Her Majesty's Deputy Greffier

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 14TH DECEMBER 2006

The States resolved as follows concerning Billet d'État No. XXI
dated 24th November, 2006

(Meeting adjourned from 13th December 2006)

ELIZABETH COLLEGE BOARD OF DIRECTORS

NEW MEMBER

IV.- To elect Professor R. Conder as a member of the Elizabeth College Board of Directors to fill the vacancy which will arise on 6th January, 2007, by reason of the expiration of the term of office of Mr N L Guillemette.

PRIAULX LIBRARY COUNCIL

NEW MEMBER

V.- To Mrs G. Lenfesty as a Member of the Priaulx Library Council, to fill the vacancy which will arise on 1st January, 2007.

HOUSING DEPARTMENT

**CORPORATE HOUSING PROGRAMME –
PROGRESS AGAINST THE 2006 ACTION PLANS**

VI.- After consideration of the Report dated 10th October, 2006, by the Housing Department:-

To approve the 2007 Action Plans for the six action areas of the Corporate Housing Programme, as set out in that Report.

S. M. D. Ross
Her Majesty's Deputy Greffier

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 15TH DECEMBER 2006

The States resolved as follows concerning Billet d'État No. XXI
dated 24th November, 2006

(Meeting adjourned from 14th December 2006)

HEALTH AND SOCIAL SERVICES DEPARTMENT

ELECTRONIC HEALTH AND SOCIAL CARE RECORD (EHSCR)

VII.- After consideration of the Report dated 13th October, 2006, by the Health and Social Services Department:-

1. To approve the introduction of a full Electronic Health and Social Care Record, as set out in that Report.
2. To approve the acceptance of the tender from TrakHealth UK Limited in the sum of £6,186,726.
3. To vote the Health and Social Services Department a credit of £3,900,000 to cover the cost of the capital works associated with this project, such sum to be charged to its capital allocation.
4. To authorise the Treasury and Resources Department to transfer appropriate sums from the Capital Reserve and Restructuring and Reorganisation Fund to the capital allocation of the Health and Social Services Department.

COMMERCE AND EMPLOYMENT DEPARTMENT

REVIEW OF TRUST LAW IN GUERNSEY

VIII.- After consideration of the Report dated 27th October, 2006, by the Commerce and Employment Department:-

1. To approve the proposals for the general revision of the Trusts (Guernsey) Law, 1989, as amended, as set out above in section 4 of that Report.
2. To approve the amendment to the law to introduce purpose trusts, as set out in section 5 of that report.
3. To endorse the principle that foundations should be enabled by Guernsey legislation, in accordance with the broad principles in section 6 of that Report, as an alternative or additional legal structure and to direct the Commerce and Employment Department to produce a further States Report to outline in detail how the foundation

will operate within the new legislative framework.

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

S. M. D. Ross
Her Majesty's Deputy Greffier

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 13TH DECEMBER 2006

The States resolved as follows concerning Billet d'État No. XXI
dated 24th November, 2006

COMMERCE AND EMPLOYMENT DEPARTMENT

AMENDMENTS TO FINANCIAL SERVICES LEGISLATION

IX.- After consideration of the Report dated 9th November, 2006, by the Commerce and employment Department:-

1. To amend their Resolution on Article XI of Billet d'État No. XVI of 2006.
2. To note the contents of that Report.
3. To approve the Projet de Loi entitled "The Financial Services Legislation (Bailiwick of Guernsey) (Amendment) Law, 2006" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

ORDINANCE LAID BEFORE THE STATES

***THE LEBANON (RESTRICTIVE MEASURES)
(GUERNSEY) ORDINANCE, 2006***

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Lebanon (Restrictive Measures) (Guernsey) Ordinance, 2006, made by the Legislation Select Committee on the 30th October, 2006, was laid before the States.

S. M. D. Ross
Her Majesty's Deputy Greffier