



BILLET D'ÉTAT

XVI
2006

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B I L L E T D ' É T A T

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **27th SEPTEMBER, 2006**, immediately after the meeting 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
8th September 2006

INHERITANCE LAW REVIEW COMMITTEE

SUPPLEMENTARY REPORT

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

15th August 2006

Dear Sir

Executive Summary

In accordance with the States resolution of 24th February, 2005, this supplementary States Report accompanies and seeks the States approval of the draft Projet de Loi entitled “The Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006” which is included in the legislation brochure which accompanies this Billet d’État.

Section B outlines the consultation process undertaken by the Committee on the draft Projet de Loi in accordance with the above States resolution.

Section C outlines and seeks the States agreement to the inclusion in the draft Projet de Loi of a number of provisions which the Committee identified as desirable during the drafting and consultation process and which go beyond the scope of or differ from the above States resolution.

Section D advises the States of the future workload identified by the Committee and seeks an addition to the Committee’s mandate.

A Introduction

1. At its meeting on 30th April, 2003 the States established the Inheritance Law Review Committee, consequent upon consideration of a Policy Letter (Billet d’État No. VI of 2003, at p. 822) identifying various areas in which reform of Guernsey's laws of inheritance might be considered necessary or desirable.
2. The mandate approved by the States when the Committee was established is in the following terms:

"To review all aspects of the Island's laws of inheritance which review shall include, but not be restricted to:

- (i) illegitimacy and intestate inheritance;
- (ii) unascertained heirs to real property;
- (iii) the distinction between "propres" and "acquêts et conquêts" in collateral inheritance on intestacy; and
- (iv) retrait lignager

and to report back to the States with such proposals to reform the said laws of inheritance and on any ancillary matter which may arise in the course of the review."

3. After extensive consideration of the First Report of the Committee ("the First Report"), to be found at Billet d'État No. II of 2005 at page 229, the States resolved on 24th February, 2005 as follows:

- "1. That all discrimination in inheritance to both Guernsey immoveable and moveable property against illegitimate children shall be removed and that the law shall be reformed as set out in Section B of that Report.
2. That a scheme of administration of Guernsey immoveable property by which, without interfering with the customary law principles of inheritance, such property may be administered and sold and good title given and obtained, notwithstanding some uncertainty as to the ownership of the property, be introduced in Guernsey as set out in Section C of that Report.
3.
 - (a) That a will made in Guernsey disposing of Guernsey immoveable property and moveable property by the same document shall not, on that ground alone, be deemed invalid.
 - (b) That a person may continue to make his will of Guernsey immoveable property separate from his will of moveable property.
 - (c) That a will disposing of Guernsey immoveable property whether or not also disposing of moveable property, is validly attested by two witnesses who may, but need not be, Jurats."
4. That the *Loi relative aux Prescriptions, 1909* be amended to

provide that the period of prescription operative in the case where purchasers have bought from heirs, whether testate or intestate, in good faith but have not required an administrator to be appointed, be reduced from 20 years to 6 years.

5. That retraits lignagers be abolished in Guernsey.
 6. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.
 7. To publish the legislation for consultation before it is laid before the States in the form of a Report.”
4. In pursuance of these Resolutions of the States, H.M. Procureur prepared draft legislation, which was extensively considered and amended by the Committee, which then proceeded to fulfil the requirement of Resolution 7 above by publishing it as part of the consultation prior to the legislation being laid before the States. This Report is intended to complete the process directed by the States in Resolution 7.

B Consultation

5. The Committee's Consultation Document was published on 22nd March, 2006, and comprised
 - a summary of the original proposals which were approved by the States at its meeting in February 2005
 - a draft *Projet de Loi* entitled *The Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006*
 - a note explaining in detail the provisions of the draft *Projet de Loi*.
6. As part of the Committee's review of the draft *Projet* prepared by H.M. Procureur, the Committee identified various matters consequent upon or incidental to the proposals that had been approved by the States, and these are identified in **C** below.
7. The Committee would like to take this opportunity of thanking all those who responded to the consultation process, not only as respects their specific comments on the draft *Projet*, but also their other comments on the future work of the Committee, and in particular more general reforms of the laws of inheritance, to which this Report refers below in **D**. The Committee was struck by the wide range of opinions and suggestions for further reform, from which it is clear that achievement of any consensus is likely to prove elusive.

8. However, in addressing the specific comments and suggestions of the respondents on the draft Projet, the Committee was throughout conscious of, and directed by, the several policies comprised in the terms of the Propositions set out in paragraph 3 above, and if and so far as a particular response urged departure from those policies, the Committee felt unable to take that representation into account. Apart from those responses at variance with the policy issues on which the States have already resolved, the Committee carefully considered all the responses, and took account of those which appeared to be beneficial in the drafting of the Projet, particularly in those cases where a lack of clarity in the drafting was perceived.
9. A list of those who responded to the consultation is attached at the First Schedule. The Committee has written to the Guernsey Bar Council in respect of not only the Council's contributions, but also those individual responses of members of the Guernsey Bar; and it has also written to other respondents, who commented on the consultation document. The Committee does not believe that any useful purpose would be served by reproducing in this Report all the contributions received and the Committee's views thereon, particularly as so many touched on policy issues on which the States have already resolved.
10. Accordingly, and in fulfilment of Resolution 7 referred to above, the Committee, with the consent of the Bailiff and the Policy Council, lays before the States for consideration the Projet de Loi entitled *The Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006* which takes account of those representations which the Committee have determined might beneficially be incorporated. In the Second Schedule, the Committee have included an explanatory note of the Projet.
11. However, in respect of various matters set out in C below, the Committee determined that there were policy issues which arose during the drafting process which went beyond the scope of or differed from the propositions approved at its February 2005 meeting.

C Policy issues additional to those contained in original propositions

12. The Committee wishes to draw to the attention of the States the following provisions of the draft Projet which go beyond, or which vary from, the propositions contained in the Resolutions of the States set out in paragraph 3 above.
13. Paragraph 9 of the First Report (adopted by Resolution 1) proposed that the removal of discrimination against illegitimate children should apply, *inter alia*, to the succession to the légitime in the estate of a person whose will was made after the date when the new Law is approved, i.e. the date of the States Resolution by which the States shall approve the Projet de Loi, rather than at or after commencement. The Committee has determined that there is no good

reason for there to be a distinction between the application of the new rule to succession to légitime and its application to the succession to any other part of a deceased's estate and that the rule should have effect in relation to the légitime in the estate of a person whose will is made after the date of commencement of clause 1 of the Projet (which, pursuant to the provisions of clause 38, shall be one month after registration of the Order in Council in the Royal Court).

14. Paragraph 13 of the First Report (also adopted by Resolution 1) proposed that the States be empowered to make provision by Ordinance as to proof of paternity. However, clause 2 of the draft Projet also empowers the States by Ordinance to amend the provisions of clause 1(5) and to amend the definition of "affiliation proceedings" contained in clause 1(7) so as to facilitate the enactment of modifications to these provisions which might be considered necessary or desirable once they have come into force and have been implemented. Similarly, the States will be empowered by Ordinance to amend the definition of "relevant instrument" in clause 1(7) so as to vary the types of instrument which will be affected by the provisions of Part I.
15. In clause 4(3) of the draft Projet, there are listed the persons or classes of person who may be appointed administrator of property under an administration order. The Public Trustee has been included as an additional potential administrator because, although it is not presently envisaged that the holder of this office would undertake such duties, it is not inconceivable that it might become one of the functions of that office in the future.
16. Clause 18 of the draft Projet gives to the States power by Ordinance to amend the provisions of Part II relating to administration orders. This is considered desirable in order to facilitate the swift enactment of any modifications which appear to be necessary in the light of experience in the early stages of the implementation of the new scheme.
17. Part III of the draft Projet was originally intended only to give effect to Resolution 3 which made specific amendments to the law relating to wills of Guernsey immoveable property, i.e. that such wills may be made in the same document as a will of moveable property and that such a will does not need to be witnessed, as at present, by two Jurats. However, it appeared to the Committee that it would be helpful to take the opportunity to consolidate the existing provisions relating to wills, in particular the formalities required for their valid execution. The provisions which are to be replaced are written in French, and wills of moveable property (*Loi relative aux Testaments de Meubles, 1847* - "the 1847 Law") and immoveable property (*Loi sur les Successions, 1840* - "the 1840 Law") are dealt with separately. The proposed consolidation will bring those provisions into one modern enactment, without changing them substantively (except as required by Resolution 3 or where indicated in paragraphs 18 to 23 below), and thus make them more accessible. The provisions are based on the mainland *Wills Act 1837* (which has been amended on several occasions), as were the original French provisions, which will have the advantage of giving the

Guernsey courts access to the accumulated body of English case law for assistance in their interpretation.

18. Clause 20 of the draft *Projet* replaces the repealed Article 15 of the *1840 Law* and provides, in accordance with Resolution 3(a), that a will of immoveable property may, after commencement, be made in the same document as a will of moveable property.
19. Clause 21 re-enacts, in substantially the same terms, Articles 3 to 7 and 9 of the *1847 Law*, and Article 1, 4 and 5 of the *1840 Law* except, in the case of the *1840 Law*, for the requirement (removed pursuant to Resolution 3(c)) that a will of immoveable property be witnessed by a Jurat. Handwritten (holographic) wills of moveable property which comply with the requirements of Article 2 of the *1847 Law* (written, signed and dated in the testator's handwriting) will continue to be valid.
20. Clause 22 expressly continues the exemption from certain of the formalities for the making of wills granted to soldiers (which also includes airmen) and mariners while in active service, which were provided for in Article 1 of the *1847 Law* and in the *Loi Relative aux Testaments de Militaires et de Marins, 1918*, and which are not repealed.
21. Clause 23, which is a new provision reflecting the English position, provides that, even if a witness to a will is incompetent (for example, by reason of age or because he is the spouse or a descendant of the testator) to prove the valid execution of the will, this does not of itself invalidate the will.
22. Clause 24 replaces Article 8 of the *1847 Law* with regard to revocation and Clauses 25 and 26 make provision for alterations to a will after it has been executed and for revival of a will after its revocation.
23. Clause 27 replaces section 4(2) and (3) of the *Law of Inheritance, 1954* ("*the 1954 Law*") and Article 10 of the *1847 Law* and brings the law relating to inheritance of immoveable property where a beneficiary predeceases the testator into conformity with that relating to moveable property. Under the *1954 Law*, where a beneficiary under a will of immoveable property predeceases the testator leaving descendants, the gift will pass to the beneficiary's heirs (not necessarily his descendants), whether by will or on intestacy; but if the will was one of personal property, the gift of the disposable portion of his personalty would automatically pass to his descendants as his representatives. The Committee considered that it was illogical and undesirable for the effect of a beneficiary's predecease to differ according to whether the property is moveable or immoveable and therefore Clause 27, which is the equivalent of section 33 of the *Wills Act 1837*, provides (for both immoveable and moveable property) that a gift to a predeceased beneficiary will take effect as a gift to the issue of that beneficiary.

24. Resolution 4 required the amendment of the *Loi relative aux Prescriptions, 1909* to provide that the period of prescription operative in the case where purchasers have bought from heirs in good faith, but have not required an administrator to be appointed, to be reduced from 20 years to 6 years. A respondent in the consultation process suggested that this protection should extend to persons other than purchasers who have acquired the property in good faith, such as persons who acquire by exchange, inheritance, saisie or gift. The Committee agree with this proposal and clause 31(1) provides that any claim by an heir to a property against a person who has acquired it, whether for value or otherwise, in good faith shall be prescribed by the lapse of 6 years from the acquisition.

D Future work of the Committee

25. As indicated above, when the Committee first commenced its work it soon became clear that it would eventually have to consider more general issues of inheritance law reform, and in particular the following matters:
- (a) whether, and if so to what extent or in what respects, Guernsey's rules of forced heirship, i.e. those provisions by which spouses and descendants are entitled, as of right, to a share in the real and/or personal estates of a deceased person, should be retained, recognising that this would necessarily involve consideration of whether Guernsey should legislate to introduce provisions of similar scope and effect to the mainland *Inheritance (Provision for Families and Dependants) Act 1975*, whereby spouses and ex-spouses of the deceased, partners (subject to having co-habited for 2 years) of the deceased, children of the deceased, persons treated as children by the deceased, and persons maintained by the deceased were enabled to claim against the estate of the deceased for reasonable financial provision;
 - (b) whether, and if so to what extent or in what circumstances, persons ought, either *inter vivos* or by will, to be able to place all or any of their real or personal estate in trust, thereby protecting their estates from e.g. dissipation, but overriding Guernsey's forced heirship rules;
 - (c) whether, as respects Guernsey real estate, the principle of *la mort saisit le vif* should be retained, or modified, to enable a system whereby real estate would be administered by executors.
26. These are complex questions, involving as they do consideration of Guernsey's customs and traditions, and legal and socio-economic history, and, in particular, the inevitable tensions between those who believe in liberalising property ownership and disposition regimes, and those who point to some desirability in retaining what is undoubtedly an important part of our heritage (for example, Guernsey's distinctive landscape reflects in some measure Guernsey's rules of inheritance).

27. One thing of which the Committee is certain is this: no further general reform of Guernsey's inheritance laws should be undertaken without extensive public consultation and the most careful consideration of all the issues involved. Inheritance law reform should not be rushed, unless there is some pressing need for reform, as is the case with inheritance by or through illegitimate persons. By way of example, the *1954 Law* was the outcome of work commenced in 1926, and which had been the subject of a complaint as to delay presented as a *requête* in October 1937. As respects the resolutions leading to its enactment, the policies resulting in enactment of the *1954 Law* had been considered by the States on no less than four separate occasions, and had taken some three years to prepare and consider.
28. The Committee has been struck, not only in the consultation process referred to above but also as a result of anecdotal evidence, by the deeply held and passionately espoused divergences of opinion on these issues. The Committee cannot point to any pressing public pressure for reform, and is presently not driven to recommend reform of the law generally as a result of international conventions, unlike the position with regard to illegitimate children against whom discrimination has been declared unlawful as the result of decisions of the European Court of Human Rights and the application of the European Convention on the Legal Status of Children born out of Wedlock, which required the States to amend Guernsey law – which of course was the principal reason for the current Projet.
29. The Committee intends to give very careful consideration to how any more general review of the law of inheritance should be conducted, and in what respects, but in the following areas, which are relatively uncontroversial, the Committee believes that work should be commenced immediately:
 - (i) paragraph (iii) of the Mandate of the Committee refers to a review of the distinction between *propres*, and *acquêts* and *conquêts*, in collateral inheritance on intestacy. This is a technical issue which may be relatively simply addressed, and soon.
 - (ii) The present Guernsey inheritance rules are to be found primarily in 19th century legislation, in French, the interpretation of which may require recourse to text books on Norman and Guernsey law of some antiquity. The Committee has been struck by the number of representations to the effect that, whatever else might be achieved, Guernsey's law of inheritance should be simplified, that is rewritten in English and made accessible to, and understandable by, the public. The Committee believes that this would be beneficial to our community, and proposes to start work on this matter soon. This does not require amendment to the Committee's Mandate.
 - (iii) A Working Party constituted under the aegis of the Finance Sector

Group, itself comprised *inter alios* of representatives of the Policy Council and the Commerce and Employment Department, has in a review of Guernsey's trust legislation mentioned that Section 11A of the *Trusts (Guernsey) Law, 1989, as amended*, purports to discriminate, in a trust context, against trusts which avoid Guernsey's rules of forced heirship. The effect of Section 11A is to provide that a foreign, i.e. non Guernsey, rule of forced heirship which would be applicable to a person dying domiciled outside Guernsey, or who owned real property outside Guernsey should not be applied by the Royal Court to set aside or avoid the terms of a trust governed by Guernsey law; whereas a Guernsey rule of forced heirship – which necessarily would apply either to the estate of a person dying domiciled in Guernsey or to real property situate in Guernsey – would not benefit from the same protection. This Working Party, under the chairmanship of Advocate Rupert Evans, had received representations to the effect that Section 11A should be reviewed, but felt unable to recommend on the matter as it fell more properly within the Mandate of this Committee. The Committee believes that the scope of Section 11A, insofar as it purports to discriminate against Guernsey rules of forced heirship in a trust context, should be reviewed, and accordingly the Committee would ask that its Mandate be extended, by the addition of a new paragraph (e) as follows: "the use of trusts, whether testamentary or *inter vivos*, for the purpose of estate protection and planning, and, in particular, whether the discrimination against Guernsey rules of forced heirship in Section 11A of the *Trusts (Guernsey) Law, 1989, as amended*, should be retained". It will be appreciated that this addition to the Mandate in scope covers in part the additional work anticipated by the Committee mentioned in paragraph 25 above.

Recommendations

The Inheritance Law Review Committee recommends the States:-

1. that the legislation to reform the law of inheritance, the preparation of which was directed by the States on 24th February, 2005, should be extended to include the issues set out in Section C of this report;
2. to approve the *Projet de Loi* entitled "The Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for her Royal Sanction thereto;
3. (1) to note the Inheritance Law Review Committee's indication of its future workload as set out in Section D of this Report; and
 - (2) to add the following item to the mandate of the Inheritance Law Review Committee

- "(v) the use of trusts, whether testamentary or *inter vivos*, for the purpose of estate protection and planning, and, in particular, whether the discrimination against Guernsey rules of forced heirship in Section 11A of the Trusts (Guernsey) Law, 1989, as amended, should be retained"

Yours faithfully

J A Pritchard
Chairman

FIRST SCHEDULE

Responses received to the Consultation Document

Deputy B R de Jersey

Deputy G Guille

Deputy J Honeybill

Policy Council

Commerce and Employment Department

Education Department

Environment Department

Housing Department

Public Services Department

Treasury and Resources Department

Constables of St Peter Port

Constables of St Martin

Constables of St Pierre du Bois

Guernsey Bar Council

Advocate L Strappini & Co

Collas Day

Nicholas Le Poidevin

Gordon Dawes

Advocate Piers Dereham

Dave Chester

SECOND SCHEDULE

The Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006

Explanatory Note of Projet de Loi

[References to Resolutions refer to Resolutions concerning Billet d'État No. 1 of 2005 and references to "the Report" relate to the First Report of the Inheritance Law Review Committee dated 10th December, 2004]

PART I

REMOVAL OF DISCRIMINATION AGAINST ILLEGITIMATE PERSONS

Part I deals with Resolution 1, which resolved that all discrimination in inheritance to both Guernsey immoveable and moveable property against illegitimate children shall be removed and that the law shall be reformed as set out in Section B of the Report.

Clause 1(1) and (2) together provide that any rule of law, whether contained in an enactment or in customary law, which creates any distinction in matters of inheritance by virtue of the fact that any person is illegitimate, is abolished with effect from the commencement of this Part. This applies to inheritance of any property, whether real (land, houses etc) or personal (all property which is not real property, including money and all other personal possessions) and applies not only to inheritance by an illegitimate person but also to inheritance from an illegitimate person and to any inheritance where the relationship between the parties arose through their respective relationships with an illegitimate person.

Clause 1(3) provides that any reference in any will or in any "relevant instrument", executed after commencement, to a relationship between two persons shall not take account of the fact that any person is illegitimate. "Relevant instrument" is defined (in clause 1(7)) as (a) an instrument by which a trust is created, whether immediately or with effect from a future date, or (b) a policy of insurance effected by any person for the benefit of his children, whether or not his spouse is also a beneficiary, and it also includes any instrument which is made pursuant to, or for the purposes of, any such trust or insurance policy. This provision is not mandatory. It is qualified by the words "unless the contrary intention appears", so that, if a will or relevant instrument specifies, for example, that only legitimate children are to benefit, that stipulation will have effect notwithstanding clause 1(3).

Clause 1(4) provides that the father of a deceased person, or any person related to the deceased through his father, is presumed to have predeceased that person, and thus not to have any entitlement in that person's estate, unless the contrary is proved. This provision prevents uncertainty where the father's existence, or whereabouts, is unknown.

Clause 1(5) makes provision for establishing the paternity of any illegitimate person for the purposes of Clause 1. Paragraph (a) provides that the fact that a person is named as the father of another in the birth certificate, or in a register of births, is evidence of paternity unless proved otherwise. Paragraph (b) provides that a finding by a court in affiliation proceedings is conclusive evidence of paternity. Under paragraph (c), an application can be made to the Royal Court for a declaration as to paternity for inheritance purposes by any person claiming to be entitled to inherit any property or, with the leave of the Court, by any other interested person. Such an application must be commenced within six years of the date of the death which gave rise to the application unless, in exceptional circumstances, the Court gives leave for it to be commenced after that period. A finding by the Royal Court under paragraph (c) can override, for inheritance purposes, a finding of paternity in affiliation proceedings. Paragraph (d) provides that it is incumbent on the person seeking to prove paternity for the purposes of clause 1(4) to establish the facts necessary so to prove.

Clause 1(6) provides that the provisions of Clause 1 shall not affect the distribution of the estate of any person who dies before the commencement of Part I nor shall it affect a direction made by a person in his will that any illegitimate child of his shall receive his share of the “*légitime*” as if that child were legitimate. Under Guernsey law, a child of a deceased person is entitled to receive, by way of “*légitime*”, either one third or one half (depending on whether the deceased person is married at the time of his death) of the personal property (see Clauses 1(1) and 1(2) above) of the deceased even if the deceased has made a will which provides for something different. Under the current law, a person who makes a will can provide that, for the purposes of the right to this “*légitime*”, an illegitimate child will be treated as legitimate (and therefore entitled to his share of the “*légitime*”).

Clause 1(7) contains definitions of certain expression used in clause 1.

Clause 1(8) provides that the provisions do not apply to a will executed before commencement even if it has been amended by codicil after commencement.

Clause 1(9) clarifies the time of a person’s birth for the purpose of ascertaining whether he is illegitimate for the purposes of the definition in clause 1(7) and includes circumstances where a person was conceived by “*in vitro*” fertilisation.

Clause 2 empowers the States to amend, by Ordinance, the specified provisions of Part I and also, by Ordinance, to make provision as to how paternity may be proved for the purposes of that Part. Clause 3 makes consequential amendments to the Law of Inheritance, 1954.

PART II

UNASCERTAINED HEIRS TO REAL PROPERTY

Part II sets out, pursuant to Resolution 2, a scheme of administration of Guernsey real (immoveable) property enabling such property to be sold or otherwise dealt with despite

there being some uncertainty as to its ownership. It should be noted that Guernsey real property passes into the ownership of the lawful heir or heirs, immediately upon the death of its owner without any formality.

Clause 4(1) provides that, where the owner of Guernsey real property dies, whether or not he has made a will in respect of that property, and it is not certain in whom ownership now vests, an application may be made to the Court for an administration order to be granted. Specific examples of uncertainty as to ownership are given in paragraphs (a), (b) and (c) but this clause applies to any case where ownership is uncertain for whatever reason. The intended effect of an administration order is to give authority to a person (the administrator) to give good title to a purchaser where otherwise it might not have been possible to sell the property because there was no person able to satisfy the purchaser that he was able to give him good title.

Clause 4(2) contains a list of categories of person who may apply for such an order. It includes -

- (a) Her Majesty's Procureur;
- (b) any adult person who is an heir, whether or not there are or might be other heirs;
- (c) where any person who is an heir is a minor or is under any other legal disability, such as mental incapacity, the guardian of that person; and
- (d) any other person or class of person prescribed for this purpose by Ordinance of the States.

H M Procureur can, if he considers it desirable in the public interest, make representations on the application if he is not the applicant.

Clause 4(3) lists the classes of persons who may be appointed as an administrator and Clause 4(4) provides that such an application may only be granted in favour of a natural person (i.e. not a corporate body).

Clause 5 provides for the duration of an administration order which shall continue until the property is sold and the proceeds of sale distributed. During the term of the administration order the administrator may retire (sub-clause (2)), or may be removed by the Court (sub-clause (3)) upon the application of any person who could have applied for an administration order to be made.

Clause 6 provides that in the event of a vacancy in the position of administrator the Court may appoint a replacement administrator.

Clause 7 provides that an administrator must take an oath in the form set out in the Schedule.

Clause 8 enables the administrator to claim his reasonable expenses and fees as a prior claim against the proceeds of sale.

Clause 9 makes provision for the powers and duties of the administrator/s.

The primary duty of the administrator (sub-clause (1)) is to hold the property or its proceeds of sale in trust for the heirs, whoever they might be. He must administer the property pending sale, sell it and then distribute the proceeds of sale. He is under an obligation to take all reasonable steps to identify the heirs (sub-clause (7)).

Upon the administration order being granted, the property is vested in the administrator who is then able to convey title or otherwise deal with the property in the same way as the deceased could have done before his death (sub-clause (6)), including letting it; and he may incur expenses, sue and be sued, take professional advice and, if necessary, apply to the Court for directions (sub-clause (4)). He may not delegate his functions except to the limited extent permitted by clause 12 (see below).

He must, when exercising his functions, observe the standards of conduct and requirements set out in sub-clause (2), including the requirement to act *en bon père de famille* (i.e. as a prudent administrator would act in relation to his own family assets). He has a duty to preserve the value of the property, or the proceeds of sale, so far as is reasonable, and a duty to enhance the value where it is appropriate to do so (sub-clause (3)).

The administrator may postpone selling the property if the circumstances are such that it would be appropriate to do so but he may not unreasonably delay the sale; and he may not subject the property to any legal charges, such as a bond, without first obtaining the approval of the Court (sub-clause (5)).

The sale of the property may be by private sale or by public auction and the administrator must hold the proceeds thereof, separately from his own or any other money which he is holding, for a minimum period of six years after the sale, after which period he may apply to the Court for permission to distribute the funds to the persons whom he has identified as being entitled to receive them. If he has been unable to find any or all of the heirs he may apply to the Court for directions as to how to proceed (sub-clause (8)).

Under sub-clauses (9) and (10), the administrator may apply to the Court for permission to distribute the funds before the expiration of the period of six years after the sale. This will normally be appropriate only where there is no significant doubt that all the heirs have been identified. Where this has been granted, the distribution of the proceeds is made expressly subject to any valid claim which arises during the six-year period by any other heir. Such heir will have a right to pursue his claim against the proceeds of sale in the hands of those heirs who have received them but the administrator, having obtained the permission of the Court to distribute the proceeds when he did, is not personally liable for any loss to the heirs.

When the administrator applies to the Court for permission to distribute the proceeds of sale, whether after or before the expiration of the six-year period, he must advise the Court, by affidavit, of the steps which he has taken to identify the persons entitled to the proceeds, and of the results of his research (sub-clause (11)).

The remaining provisions of Part II are intended to facilitate the proper execution of administration orders.

Clause 10, which is similar to the equivalent provisions of the Trusts (Guernsey) Law, 1989, makes provisions for the circumstances in which an administrator may be liable for breach of trust. He is personally liable for any loss in value of the property or proceeds, and any profit consequentially lost, as a result of his breach of trust; but he is not liable for any breach by any other person prior to his appointment as administrator nor is he liable for any breach by any of his co-administrators unless he is aware, or should have been aware, of the breach or the intention to commit a breach, and he either conceals the breach or fails to take steps to prevent it or remedy it. Where joint administrators are liable for breach of trust, action may be taken against all or any of them jointly or any of them individually for the whole amount claimed. However (clause 13), the Court may relieve an administrator wholly or partly of liability for a breach if it is satisfied that he acted honestly and reasonably and ought fairly to be excused.

Clause 11 provides that an administrator need not disclose documentation relating to the administration unless the Court orders that he should do so.

Clause 12 sets out the extent to which an administrator may act through an attorney: he may do so for the purposes of executing a document or consenting to the sale of the property but only if he has approved the terms of the document or sale in advance.

For clause 13, see above.

Clause 14 enables the Court, where an administrator has failed to carry out any order of the Court, to order another person to do whatever needs to be done at the expense of the defaulting administrator.

Clause 15 governs the administrator's dealings with third parties. An administrator should inform any third party with whom he is communicating in connection with a transaction affecting the property or proceeds of sale that he is acting as a trustee and not in his own behalf. If he does so, any claim by that third party is limited to the value of the property or the amount of the proceeds of sale at the time of the transaction. If he fails to do so, he is personally liable to the third party for any claim in respect of that transaction although he can be indemnified from the property or proceeds if he has not been in breach of trust.

Clause 16 gives effect to the Court's power to give directions as it thinks fit if the administrator needs guidance as to how to proceed in the administration. Clause 17 enables the persons therein specified to apply to the Court for an order relating to any

aspect of the administration which is causing concern. Sub-clause (3) enables the Court to attach conditions to an administration order and specifically enables it to require a bond to be given which is intended to protect the property in the event of default by the administrator.

Clause 18 enables Part II to be amended by Ordinance.

PART III

LAW RELATING TO WILLS

Part III is primarily intended to give effect to Resolution 3 which makes specific amendments to the law relating to wills of Guernsey immoveable property. However, in the course of drafting the provisions it was considered that it would be helpful to take the opportunity to consolidate existing provisions relating to wills, in particular the formalities required for their valid execution. The provisions replaced (specified in clause 28) are written in French and wills of personal property and real property are dealt with separately. The proposed consolidation will bring those provisions up to date, without changing them substantively (except as required by Resolution 3 or where indicated below), and thus make them more accessible. The provisions are based on the UK Wills Act 1837 (as amended), as were the original French provisions, thereby facilitating the use of UK case law for interpretation purposes.

Clause 20 replaces the repealed Article 15 of the Loi sur les Successions 1840 (“the 1840 Law”) and provides that a will of immoveable property may, after commencement, be made in the same document as a will of personal property.

Clause 21 re-enacts Articles 3 to 7 and 9 of the Loi Relative aux Testaments de Meubles of 1847 (“the 1847 Law”) and Article 1, 4 and 5 of the 1840 Law except, in the case of the latter Law, for the requirement that a will of immoveable property be witnessed by a Jurat. Handwritten (holographic) wills of moveable property which comply with the requirements of Article 2 of the 1847 Law (written, signed and dated in the testator’s handwriting) will still be valid.

Clause 22 continues the exemption from certain of the formalities for the making of will granted to soldiers and mariners in active service, provided for in Article 1 of the 1847 Law and in the Loi Relative aux Testaments de Militaires et de Marins 1918, which are not repealed.

Clause 23, which is a new provision reflecting the UK position, provides that even if a witness to a will is incompetent (for example, by reason of age or because he is the spouse or a descendant of the testator) to prove the valid execution of the will, this does not of itself invalidate the will.

Clause 24 replaces Article 8 of the 1847 Law with regard to revocation and Clauses 25 and 26 make provision for alterations to a will after it has been executed and for revival of a will after its revocation.

Clause 27 replaces section 4(2) and (3) of the Law of Inheritance 1954 and Article 10 of the 1847 Law and brings the law relating to inheritance of immoveable property where a beneficiary predeceases the testator into conformity with that relating to moveable property. Under the 1954 Law, where a beneficiary under a will of immoveable property predeceases the testator leaving descendants, the gift will pass to the beneficiary's heirs (not necessarily his descendants), whether by will or on intestacy; but if the will was one of personal property, the gift of the disposable portion of his personalty would automatically pass to his descendants as his representatives. Clause 27, which is the equivalent of section 33 of the Wills Act 1837, provides (for both immoveable and moveable property) that a gift to a predeceased beneficiary will take effect as a gift to the issue of that beneficiary.

PART IV

PRESCRIPTION

Part IV gives effect to Resolution 4. It provides that any claim in respect of immoveable property against a person who has acquired it in good faith, whether by purchase, gift, inheritance or any other lawful means, from the heirs of the property, must be brought within a period of six years after the acquisition rather than twenty years as would otherwise be the case. However the Court has a discretion to extend the period (although not beyond twenty years) if it appears equitable to do so.

PART V

ABOLITION OF RETRAIT LIGNAGER

Part V gives effect to Resolution 5.

PART VI

MISCELLANEOUS AND GENERAL

Clause 33 makes supplemental provisions as to the Ordinance-making powers (clauses 2, 18 and 34) under the projet. Clause 34 enables the States by Ordinance to confer power on the Royal Court to make rules of court doing anything which the States themselves would be able to do by Ordinance and clause 35 empowers the Royal Court to make rules of court for the purpose of the projet.

Clause 36 deals with interpretation.

(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:-

I.- Whether, after consideration of the Report dated 15th August, 2006, of the Inheritance Law Review Committee, they are of the opinion:-

1. That the legislation to reform the law of inheritance, the preparation of which was directed by the States on 24th February, 2005, shall be extended to include the issues set out in Section C of that Report.
- 2 To approve the Projet de Loi entitled "The Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for her Royal Sanction thereto.
- 3
 - (1) To note the Inheritance Law Review Committee's indication of its future workload as set out in Section D of that Report.
 - (2) To add the following item to the mandate of the Inheritance Law Review Committee

"(v) the use of trusts, whether testamentary or *inter vivos*, for the purpose of estate protection and planning, and, in particular, whether the discrimination against Guernsey rules of forced heirship in Section 11A of the Trusts (Guernsey) Law, 1989, as amended, should be retained".

PROJET DE LOI

entitled

**THE ANIMAL WELFARE (ENABLING PROVISIONS)
(GUERNSEY) LAW, 2006**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the Projet de Loi entitled "The Animal Welfare (Enabling Provisions) (Guernsey) Law, 2006" 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 POLICE PROPERTY AND FORFEITURE
(BAILIWICK OF GUERNSEY) LAW, 2006**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the Projet de Loi entitled "The Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006" 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 ROAD TRAFFIC (DRINK DRIVING)
(GUERNSEY) (AMENDMENT) LAW, 2006**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the Projet de Loi entitled "The Road Traffic (Drink Driving) (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 AVIAN INFLUENZA (PRECAUTIONARY MEASURES) AND
MISCELLANEOUS PROVISIONS (AMENDMENT) ORDINANCE, 2006**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled "The Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006" and to direct that the same shall have effect as an Ordinance of the States.

THE BAR (AMENDMENT) (No. 2) ORDINANCE, 2006

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled “The Bar (Amendment) (No. 2) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

THE DRUG TRAFFICKING (DESIGNATED COUNTRIES AND TERRITORIES) (AMENDMENT) ORDINANCE, 2006

The States are asked to decide:-

VII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Drug Trafficking (Designated Countries and Territories) (Amendment) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

THE INCOME TAX (EXEMPT BODIES) (GUERNSEY) (AMENDMENT) ORDINANCE, 2006

The States are asked to decide:-

VIII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

THE MACHINERY OF GOVERNMENT (TRANSFER OF FUNCTIONS) (GUERNSEY) (No. 2) ORDINANCE, 2006

The States are asked to decide:-

IX.- Whether they are of the opinion to approve the draft Ordinance entitled “The Machinery of Government (Transfer of Functions) (Guernsey) (No. 2) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

THE TRADE MARKS (BAILIWICK OF GUERNSEY) ORDINANCE, 2006

The States are asked to decide:-

X.- Whether they are of the opinion to approve the draft Ordinance entitled “The Trade Marks (Bailiwick of Guernsey) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

PROJET DE LOI

entitled

**THE FINANCIAL SERVICES LEGISLATION
(BAILIWICK OF GUERNSEY) (AMENDMENT) LAW, 2006**

The States are asked to decide:-

XI.- Whether they are of the opinion 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.

SCRUTINY COMMITTEE

NEW MEMBER

The States are asked:-

XII.- To elect a sitting member of the States as a member of the Scrutiny Committee to complete the unexpired portion of the term of office of Deputy B J Gabriel, who has resigned as a member of that Committee, namely to serve until May 2008 in accordance with Rule 7 of the Constitution and Operation of States Departments and Committees.

HOME DEPARTMENT

DEFINITION OF “AGENT” IN PREVENTION OF CORRUPTION LAW

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

17th July 2006

Dear Sir

1. Executive Summary

The purpose of this report is to seek authority from the States for the drafting of an appropriate Ordinance under the provisions of the Prevention of Corruption (Bailiwick of Guernsey) Law, 2003 to permit the States to amend the list of persons and office holders who are defined as “agents” under the Law.

The proposed amendment will further demonstrate Guernsey’s compliance with Council of Europe Convention on Corruption.

2. Proposals from Her Majesty’s Procureur

Her Majesty’s Procureur has written to the Department in the following terms:

“Introduction

The Prevention of Corruption (Bailiwick of Guernsey) Law, 2003 was approved by the States of Deliberation in September 2003 and came into force on 19 January 2004. The enactment of the Law will enable the Council of Europe Convention on Corruption to be ratified on behalf of the Bailiwick and demonstrates the Bailiwick’s desire to contribute to measures designed to eliminate the pernicious and destabilising mischief of corruption.

Addition to the Convention and proposed action

The Prevention of Corruption Law lists in some detail the persons and office holders who are agents for the purposes of the Law and who should not accept corrupt payments etc or be approached by another and offered any such payment.

In May 2003 a Protocol was added to the Convention requiring the prohibition of the bribing of arbitrators who are not currently included in the description of agents in our Law.

The Law does contain a provision that allows the States to amend the list of agents by way of Ordinance. I should therefore be grateful if the States could be asked to authorise the drafting of an appropriate Ordinance so that, for the purposes of the Law, an arbitrator will fall within the definition of agent. Such an amendment will enable the Bailiwick to demonstrate further its compliance with the Convention and the Protocol.

Human rights and cost

In my opinion my proposal if enacted, will not contravene the provisions of the European Convention on Human Rights or require any extra public expenditure.”

The Home Department has consulted the Chief Officers of Police and Customs and Immigration Service regarding these proposals. The proposals have the Department’s full support.

3. Resources

The Home Department believes that the proposals contained within this report should not require any additional resources.

4. Conclusion

In conclusion the Department recommends the States:

To approve the Department’s proposals to draft an appropriate Ordinance under the provisions of the Prevention of Corruption (Bailiwick of Guernsey) Law, 2003 as set out in Her Majesty’s Procureur’s letter; and

To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

Yours faithfully

M W Torode
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:-

XIII.- Whether, after consideration of the Report dated 17th July, 2006, of the Home Department, they are of the opinion:-

1. To approve the Home Department's proposals to draft an appropriate Ordinance under the provisions of the Prevention of Corruption (Bailiwick of Guernsey) Law, 2003 as set out in Her Majesty's Procureur's letter.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOME DEPARTMENT

DATA PROTECTION

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

25th July 2006

Dear Sir

1. Executive Summary

The purpose of this report is to propose certain amendments to the Data Protection (Bailiwick of Guernsey) Law, 2001. In particular the proposed amendments will ensure that the provisions of the Law complement those of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 in an appropriate manner. Other proposals are based on the Commissioner's experience from enforcing the existing Law and the need to ensure that the Bailiwick's legislation continues to meet the criteria for the transmission of personal data pursuant to Directive 95/46/EC.

2. Proposals from Data Protection Commissioner

The Data Protection Commissioner has written to the Department in the following terms:

- (a) *"The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 will, subject to States' approval, come into force during 2006. From that date unauthorised disclosure of "spent" convictions will become an offence, but it will still be possible for prospective employers to require prospective employees to obtain and disclose details of their criminal convictions (including any "spent" convictions) using the subject information provisions of the Data Protection Law [section 7].*

The practice described in the previous sentence is often referred to as "enforced subject access" and, insofar as it effectively compels the disclosure of "spent" convictions in connection with offers of employment, is perceived to be unfair and unnecessary.

Section 56 of the Data Protection Law, which has not yet been brought

into force, could make enforced subject access in certain circumstances a criminal offence. In particular, it could be brought into force so as to make it a criminal offence for an employer, as a condition of any offer of employment, to require a prospective employee to disclose any previous convictions, other than ones which were not "spent".

Furthermore, the section could be brought into force subject to modification so that it would not apply in relation to a police clearance certificate [referred to in the Code as a Disclosure] issued by or on behalf of the Chief Officer of Police in accordance with any code of practice issued by the Data Protection Commissioner under section 51(3) of the Law."

Recommendation 1

Given that the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 came into force on 1 July 2006, it is recommended that section 56 is brought into force and that the Law Officers are requested to draft legislation amending the definition of what constitutes a relevant record in section 56(5) so as to exclude a Disclosure issued by or on behalf of the Chief Officer of Police in accordance with any code of practice issued by the Commissioner under section 51(3) of the Law.

- (b) *"Section 54(3) of The Data Protection Law requires the Commissioner to co-operate with the European Commission and with supervisory authorities in the EEA States. This section had not been commenced pending a decision of the European Commission as to the adequacy of the Data Protection régime within the Bailiwick. Now that a favourable decision on adequacy has been made, it would be opportune to commence that section of the Law."*

Recommendation 2

It is recommended that the section 54(3) of the Data Protection Law is brought into force as soon as convenient.

- (c) *"Further experience in undertaking enforcement action has highlighted other areas where the Law would benefit from clarification or amendment. These have been discussed in general terms with the Law Officers, who have raised no objections in principle.*

It is recommended that Section 62 of the Law: "Application to Committees of the States" be amended to clarify that:

- 1. the Law binds the Crown and is applicable to all committees and departments (however described) of the States of Guernsey, States of Alderney and the Chief Pleas of Sark;*

2. *for the purposes of the Law each such department or committee is to be taken to be a separate person;*
3. *if an order, requirement, direction, notice or other instrument is imposed or served on the chief officer or head of a department or committee it is to be taken as having been served on that department or committee and the chief officer or head as the case may be shall ensure compliance.*

This clarification is needed following an attempt last year to serve an information notice on a States department, which gave notice of an appeal in part on the grounds that the notice was improperly served.

The proposed wording is similar to that used in the equivalent Jersey Law, which of course is the most recent law to have been drafted.”

Recommendation 3

It is recommended that section 62 is amended largely as proposed by the Commissioner but subject to the qualification, insofar as the Crown is concerned, raised by Her Majesty's Procureur and described in paragraph 4 of this report.

- (d) *“It is recommended that Section 43(1) of the Law be amended by adding an additional sub-paragraph (c), such that if the Commissioner:*
 - (c) *whilst undertaking an assessment, has reasonable grounds for suspecting that the data controller or the data processor holds information that would assist in determining whether another data controller was complying, or had complied, with the data protection principles;*

he may serve the data controller or the data processor, as the case may be, with an Information Notice.

This provision, (and an equivalent provision in [Schedule 1 of] the Privacy and Electronic Communications Ordinance 2004) is needed to cover the instance where one body may hold evidence relating to the compliance of another body with the Law.

A particular example, which has been raised by the UK Commissioner, is in the area of spam. If someone is sending out spam from a Guernsey based internet service provider [ISP], most of the evidence would be held in the records of the ISP, rather than in the equipment held by the spammer.

Another specific example occurred when I was investigating allegations of unlawful disclosure of personal data by an employee of a regulated body, where information held by the Financial Services Commission was potentially relevant to my own investigation. Understandably, the Commission was reluctant to release this information to me without being under some legal obligation to do so."

Recommendation 4

It is recommended that Section 43(1) of the Law is amended as proposed by the Commissioner and that an equivalent amendment is made to paragraph 4 of Schedule 1 to the Privacy and Electronic Communications regulations.

- (e) *"Discussion with the Law Officers has identified a number of minor amendments to the Law, most of which are typographical, but there is one significant change proposed that would give the Commissioner and those acting for him statutory immunity for any actions taken (or not taken) in good faith. This is by analogy to similar immunity granted to the Director of Utility Regulation."*

Recommendation 5

It is recommended that the Law Officers are requested to draft an Ordinance to correct a number of small omissions and oversights in the Law and to create statutory immunity for the holder of the Office of Commissioner and certain persons acting for him with his authority.

- (f) *"It is recommended that the Department consider whether the fees charged for Notification under the Law should be increased.*

At present, the fee for Notification is £35 per year, which was set in 2002 [when the Law was commenced] to be at the same level as that in the UK. Prior to that, the fee had been £75 [since 1992] for a three year Registration under the previous Law.

Economies of scale in the UK mean that the fee of £35 covers all of the costs of the Information Commissioner, however locally the current level of fee barely covers the cost of running the Notification system.

The annual fee charged in the Isle of Man is £40 and the fee in Jersey is £50.

A fee of £50 per annum would bring in an estimated additional £18,000 of revenue from the present 1,200 register entries and would largely cover the non-staff costs of this office. The impact of such a rise could be cushioned if non-profit making bodies were exempt, as is the case in

the Isle of Man. Currently only 20 such bodes are Notified, so exempting them from a fee would reduce the estimated revenue increase by £1,000 to £17,000 per annum.”

Recommendation 6

Members are requested to note that the Department proposes to amend the Data Protection (Notification and Notification Fees) Regulations 2002 such that from the date of the amendment, the fee for a notification or renewal of a notification will be £50 except in the case of not for profit organisations, where no fee will be payable.

The Department supports all of the proposals indicated in this paragraph of the Report, subject to the comments raised by Her Majesty’s Procureur regarding the amendment making the provisions of the Law expressly binding upon the Crown.

3. Code of Practice

In 2003, following the States resolution to introduce legislation for the rehabilitation of offenders, the Data Protection Commissioner identified the need for official guidance to be issued on compliance with the Rehabilitation of Offenders Law and the Data Protection Law in relation to the disclosure of convictions and it was agreed that a Code of Practice (as referred to above) should be issued under Section 51(3) of the Data Protection Law.

A draft version of this Code of Practice was issued on a consultative basis to States Committees at the end of 2003 and to other interested parties at the beginning of 2004. This document has since been updated to reflect the responses that have been received and has been made available on the Data Protection website. Following the commencement of the Rehabilitation of Offenders Law, the Commissioner has published specific guidance derived from this Code of Practice.

The Code of Practice is of key importance in facilitating compliance with both the Data Protection and the Rehabilitation of Offenders Laws. Accordingly, a copy of the Code of Practice has been laid before the States for information, by way of an Appendix to this Billet d’État.

4. Consultation with Her Majesty’s Procureur

The Department and Data Protection Commissioner have consulted Her Majesty’s Procureur in connection with the proposals described in paragraph 2 of the report. Generally speaking he supports the proposals but he is concerned to ensure that any amendment making the provisions of the Law expressly binding upon the Crown is qualified. In particular he proposes that provision is included in the Law, for the avoidance of any doubt, that rights of subject access shall not extend to personal data which is held by prosecuting authorities (that is to say the Law Officers, the police and customs) for the purposes of the prevention, detection or investigation of crime or

apprehension or prosecution of offenders within or outside the Bailiwick.

The Department fully supports this proposal.

5. Costs

It is not envisaged that there will be any cost implications for the Department or the Office of Data Protection Commissioner as a result of the amendments to the Law proposed in this report. Indeed, as set out in the comments from the Data Protection Commissioner, the proposal to increase the fee rates from £35 per annum to £50 should generate some £17,000 additional income.

6. Summary of Recommendation

In summary the Department recommends that the Data Protection (Bailiwick of Guernsey) Law, 2001 be amended in the following respects:

1. Following the commencement of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 on 1 July 2006, it is recommended that section 56 is brought into force and the Law is amended to include a definition of what constitutes a relevant record in section 56(5) so as to exclude a Disclosure issued by or on behalf of the Chief Officer of Police in accordance with any code of practice issued by the Commissioner under section 51(3) of the Law;
2. That section 54(3) of the Data Protection Law is brought into force;
3. That section 62 is amended, as proposed by the Commissioner but subject to the qualification, insofar as the Crown is concerned, raised by Her Majesty's Procureur and described in paragraph 4 of this report;
4. That Section 43(1) of the Law is amended, as proposed, and that an equivalent amendment is made to paragraph 4 of Schedule 1 to the Privacy and Electronic Communications regulations
5. That the Law be amended to correct the small omissions and oversights identified and to create statutory immunity for the holder of the Office of Commissioner and certain persons acting for him with his authority;
6. That the fee for a notification or renewal of a notification be increased to £50 except in the case of not for profit organisations, where no fee will be payable

7. Conclusion

In conclusion the Department recommends the States:

To approve the Department's proposals for amending the data protection legislation, as detailed in this Report; and

To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

Yours faithfully

M W Torode
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:-

XIV.- Whether, after consideration of the Report dated 25th July, 2006, of the Home Department, they are of the opinion:-

1. To approve the Department's proposals for amending the data protection legislation, as detailed in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

PUBLIC SERVICES DEPARTMENT

REVIEW OF GRANTS AND LOANS FOR CONNECTION TO THE PUBLIC FOUL SEWER

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

27th July 2006

Dear Sir

1.0 Executive Summary

This report reviews the current package of grants and loans for connection to the public foul sewer [The Grants and Loan Scheme] that was approved by the States in 1981. The objective of this Scheme was to encourage early connection of homes to new public foul sewers that had been constructed at substantial public expense. Whilst the objectives of this Scheme remain entirely valid, the Board does not consider that commitment to provide grants and loans can be justified or afforded in the current financial climate.

The Board is proposing to reduce the overall cost of financial assistance for connection to the public foul sewer, phasing out payment of grants and loans for routine connections. In order to discharge outstanding grant aid and loan commitments for connection of homes to public foul sewers recently laid or currently under construction, it is recommended that the existing capital vote be supplemented by £240,000, this sum to be taken from the existing capital allocation of the Public Services Department.

Other minor changes are recommended to update administrative procedures and financial limits in the 1974 Sewerage Law.

2.0 Introduction

- 2.1 The new financial climate within the public sector has led to the Public Services Department carefully examining all areas of expenditure for which it has responsibility. One of the conclusions reached is that the provision of incentives to connect individual properties to the public foul sewer network and financial assistance available to property owners for that purpose, costing in the region of £100,000 per annum, is not a priority when compared to the other public services that must be provided.

- 2.2 This report therefore reviews the current package of grants and loans for connection to the public foul sewer by examining the background, assessing how it has operated over the years and presenting proposals for it to be discontinued in its present form.
- 2.3 The Department will shortly be bringing forward proposals for discussion by the States about the possible introduction of a wastewater removal charge and it may be that this proposal, together with financial restructuring of the sewerage business, could provide additional funds to support the Grant and Loan Scheme. However, it is highly probable that new legislation would be required to introduce a wastewater charge and therefore very unlikely that additional funds will be available in the near future.
- 2.4 The States approved the introduction of the current Grants and Loan Scheme in 1981 [Resolutions are attached as Appendix I]. HM Comptroller has advised that a Resolution of the States is required to change the approved Grants and Loan Scheme.

3.0 Objectives and Development of Grants and Loans Scheme

- 3.1 The concept of financial assistance to connect premises to the public foul sewer originated shortly after approval of an Island Drainage Plan in 1966. This Plan included extension of the public foul sewer network to serve existing properties and proposed developments on the west coast and other previously unsewered areas of the Island. In order to maximise the anticipated benefits from the substantial investment in new sewers, it was recognised that existing properties should be connected at the earliest practical opportunity.
- 3.2 In 1967 the States approved financial assistance for the connection of existing dwellings to the public foul water sewer, in the form of loans at 2% interest, subject to means testing. These loans were funded from the Homes for Workers Scheme administered by the Housing Authority.

1974 Sewerage Law

- 3.3 The concept developed with comprehensive revision of the sewerage law. Section 10 of The Sewerage [Guernsey] Law, 1974 empowers the Environment Department [as successor to the Housing Authority with responsibility for Building Regulations] to compel the owner of a new or extended building to connect to a public foul sewer, if the building is situated within a maximum distance of 100 feet [30 metres] from the public foul sewer [and is at a level which makes it reasonably practical to do so].
- 3.4 The owner of a new or extended building may be compelled to install a foul sewer connection over longer distance, subject to a financial contribution [grant] from the Public Services Department [as successor to the Public Thoroughfares

Committee] towards the cost. The financial assistance package was subsequently modified in 1981 by Resolution of the States [Appendix I - Resolution 5a].

- 3.5 Section 12 [2] of the 1974 Law also provides powers to require the connection of existing buildings to the public foul sewer, subject to a maximum cost prescribed by Ordinance and the availability of a loan [initially from the Housing Authority]. The maximum cost was last raised in 1981 and currently stands at £1,500. [Sewerage (Maximum Expense for Connection of Drains with Public Sewer) Ordinance, 1981].

Provision of Lateral Connecting Sewers

- 3.6 Since 1975, whenever a new public foul sewer has been laid, branch sewers have been simultaneously installed at public expense to the boundary of the public road to provide facilities to connect all properties where there is an existing or potential source of foul effluent. The owners of properties are generally responsible for installing the length of foul sewer connections within private property from the cesspool to the branch foul sewer in the public road.

1976 Amendments to Loan Scheme

- 3.7 In 1976 [Billet XIV], the States approved additional funding and amended the rules of the original 1967 Loan Scheme.

1981 Review [Billet XIV]

- 3.8 In 1981, the Public Thoroughfares Committee presented a progress report to the States on the connection of individual properties to public foul sewers. At that time the Committee was most concerned at the delay in connecting existing properties to new public foul sewers; ten years after such major investment by the States, less than half the properties had been connected. The Committee was unwilling to recommend further investment in new public foul sewers until the connection issue had been resolved.
- 3.9 The Committee noted in 1981 that some 420 properties had not yet been connected but only 25 owners had borrowed from the States for this purpose because such loans were means tested. Research at that time provided further indication that the cost of connection was a significant factor. The Committee also commented that the charge for emptying cesspits was subsidised by the States; at that time emptying charges recovered only 36% of the operating cost of this service.
- 3.10 The Committee put forward a comprehensive package of proposals that were accepted by the States including the establishment of the present Grants and Loans Scheme. Appendix I provides the full text of all 13 States Resolutions – Resolutions 1-3 and 12 establish the present Grant and Loan Scheme: Resolution

7 delegates administration to the Housing Authority. These functions are now undertaken by Public Services Department supported by accounting services undertaken in the Treasury and Resources Department.

- 3.11 Changes made when responsibility for Building Control functions were transferred from Housing to what is now the Environment Department have not been reflected in the wording of the 1974 Sewerage Law. A Transfer of Functions Ordinance will be required to update Section 12[2] (b) of this legislation.
- 3.12 The 1981 report recommended that, where the owner of a building had opted not to connect two years after a new public foul sewer became available and the buildings were within 100 feet [30 metres] from a public foul sewer, charges for emptying cesspools should be increased to the full economic rate, and this policy was approved [Appendix I – Resolution 4].

4.0 Current Grants and Loans Scheme

- 4.1 The Grants and Loan Scheme provides financial assistance towards the cost of connecting individual owner occupied properties or groups of properties to the public foul sewer; it does not extend to new houses or properties in commercial use.
- 4.2 The provisions of this scheme also apply to persons required to connect under provisions of the 1974 Sewerage Law. The Scheme specifically includes ‘groups of persons who are prepared to meet the cost of construction of a foul water sewer to serve their area in advance of any States project’. However the Scheme predates the introduction of legislation enabling the sale of flats.
- 4.3 The current Scheme comprises a grant of one third of the standard cost of connection, based on the length of private foul sewer connection required and a standard rate, currently £69 per metre installed. A subsidised loan is available to meet the balance of the standard cost of connection, repayable over 10 years at 2% interest. The terms of this loan have included a bond on the property.
- 4.4 The Department has determined that the maximum grant will be limited to £1,000 [one third of the current standard cost of laying a foul sewer connection 43 metres to the roadside boundary] and maximum loan £4,000 [87metres long].
- 4.5 Over the past 4 years, only 45 loans have been issued to support approximately 7% of connections; the average loan was less than £2,000. Despite the low rate of interest, this is easily explained by the requirement for a formal Bond on the property with associated legal costs. The financial position of the Loans Fund remains robust; during 2005 repayments exceeded loans advanced, the total of loans outstanding at 31 December 2005 was £79,589 and the balance of the capital account was £200,000, leaving some £120,411 to fund new loans. Interest on these loans is retained by the General Revenue Account.

- 4.6 In contrast to the position for loans, almost all those eligible have claimed the available grant; 667 grants totalling £363,298 were paid over this 4-year period with an average value of £545 each. A further £240,000 in grant aid may be needed over the next few years to meet existing and potential commitments to the owners of approximately 400 properties that have not yet been connected to the new public foul sewers currently under construction or recently completed under the Network Extension Plan. A degree of commitment to provide grant aid and loans has already been given to these property owners.
- 4.7 The preceding figures do not include connection to public foul sewers programmed to commence construction during 2007 and 2008. Under the current Network Extension Plan a further 145 properties will be able to connect by the end of 2008, which would add potential grants in the region of £80,000. The total grant aid required to connect properties to the projected public foul sewers programmed for completion by the end of 2008 is therefore £320,000. Looking further ahead, if public foul sewer construction continues at the previous rate, there would be an ongoing commitment to pay connection grants totalling about £120,000 per annum.
- 4.8 The Review has been made necessary because capital allocations for the current year and those that it is anticipated will be available in future years, do not provide scope to continue the Grants and Loan Scheme in its current form.

5.0 Review of Grants and Loan Scheme

Objective of Grants and Loans Scheme

- 5.1 Since 1966 the States has been investing the substantial sums necessary to create a comprehensive public foul sewerage network, progressing and revising plans in accordance with available revenues. The original objective was to maximise the anticipated benefits from the substantial public investment in new foul sewers by assisting owners to connect their properties to the new public foul sewers without delay.
- 5.2 There can be little argument against the benefits of prompt connection of properties to a new public foul sewer already laid at public expense, and to that extent the principal objectives of the Grants and Loan Scheme remain entirely valid. It is however necessary to review the extent to which financial assistance contributes towards that objective.

Subsidised Charges for Emptying Cesspits

- 5.3 In 1981 when the current scheme was introduced, charges for emptying cesspools were £1.50 per load, recovering only 36% of operating costs. At that time the full cost of the emptying service was equivalent to £4.13 per load and a full economic cost including capital was assessed as £6 per load. There was

therefore, at that time, a secondary economic reason to subsidise connection to the public foul sewer and thereby minimise the public costs of providing the cesspool emptying service.

- 5.4 Charges for cesspool emptying have been raised from £1.50 in 1981 to the current £8.00 per load and the cost of providing this service has been contained by improved efficiency, such that the current subsidised charge now recovers 90% of the operating cost of wastewater collection. The full economic cost has been estimated in the region of £12 - £15 per load depending upon assumptions about overhead costs attributed to this service.
- 5.5 The economic case for the Grant and Loan Scheme has been reduced by a more commercial approach to management of the wastewater collection service, but the standard charge remains substantially less than the full economic cost of this service.

Financial Incentives to Connect to the Public Foul Sewer

- 5.6 Typical charges for emptying a domestic cesspool total something in the region of £250 per annum. The increased rateable value of properties connected to public foul sewer adds in the region of £50 per annum to taxes paid. Although this may change in future, at present a connection to the public foul sewer would reduce the owner-occupier's costs by about £200 per annum.
- 5.7 **The market value of property connected to the public foul sewer is higher than a similar property due to both the lower cost of sewage disposal, increased amenity and convenience offered by the connection.**
- 5.8 On the basis of recent grants and loans, the owner of a typical property who wishes to connect to the public foul sewer faces immediate costs in the region of £2,500 that should, over the longer term, be fully recouped by reduced charges for sewage disposal and increased future market value of the property.
- 5.9 Whilst there are clear long-term financial benefits to property owners, experience has shown that such long-term benefits do not in themselves drive rapid connection to the public foul sewer, not least because enhancement in market value is only realised as and when the property is sold.

Performance of Grants and Loan Scheme

- 5.10 Under the present scheme, properties are being connected to new public foul sewers much more quickly than before the scheme commenced in 1981. At that time there was a backlog of 420 properties not connected to the public foul sewer; there are now less than 20 outstanding cases on the current list and the Department is actively encouraging these connections.
- 5.11 Some 70% of properties that could be connected to public foul sewers

completed under the Network Extension Plan between December 2001 and October 2004 have already been connected. Grants have been paid for almost all of these connections but there is no direct evidence to indicate whether the timing of connection has been advanced to take advantage of the grant. Loans have been taken out for only 7% [41] of connections and this may provide a better indication of genuine need for financial assistance.

- 5.12 Whilst the typical cost of connecting to the public foul sewer [£2,500] would be beyond the immediate funds of some property owners, it is not a large sum in the context of average incomes or general property maintenance and refurbishment costs. However there are non-financial factors that may be of more significance for the timing of sewer connection.

Non-Financial Factors

- 5.13 There have been substantial socio-economic changes in Guernsey since 1981. People are for the most part prosperous and busy with full employment or full time education for all members of the family. The prospect of excavating to lay a new foul sewer connection through the garden or drive is somewhat intrusive, disruptive and a hassle to organise. Once accustomed to using a cesspit, owner-occupiers may perceive little urgency to connect to a new public foul sewer; it may seem more appropriate to wait until the property is sold or integrate sewer connection works into the next maintenance, refurbishment or extension project. A grant of about £500 is unlikely to be sufficient motivation to advance sewer connection but it may be a factor, particularly if there is a cut off date beyond which the grant is not available.
- 5.14 When buildings are constructed, extended or upgraded, there is a requirement to comply with Building Regulations administered by the Environment Department; these requirements include foul drainage. Compliance with Building Regulations provides another reason why owners connect properties to the public foul sewer.

Sanctions for Delayed Connection

- 5.15 The benefits of connection are sufficient to ensure that in the longer term almost all properties that can connect to the public foul sewer will be connected. Incentives and sanctions are only required to speed up the rate of connection. The Department actively encourages connection to the public foul sewer, by persuasion, with sanctions and if necessary there are statutory powers held in reserve.
- 5.16 The main financial sanction was authorised by the States in 1981. The authorised sanctions comprise higher charges for emptying cesspits serving buildings less than 100 feet [30 metres] from a public foul sewer, to commence two years after the relevant sewer was installed. The higher rate for cesspit emptying authorised by the States is the full economic cost of providing the

cesspit emptying service [initially £6.00 per load]. It was intended that buildings further than 100 feet from a public foul sewer would continue to receive a subsidised cesspit emptying service.

- 5.17 The Department currently levies a higher charge of £24 per load, applied only to properties where the owner opts not to connect to the public foul sewer.
- 5.18 Section 12 [2] of the 1974 Sewerage Law provides powers to require connection of properties to a public foul sewer subject to a maximum cost and availability of subsidised loan at 2% interest. The conditions do not include payment of a grant. The relevant maximum cost was last increased to £1,500 in 1981; this sum should now be increased to reflect current costs.
- 5.19 As customers are now charged the higher charge if they do not take up the option to connect to the public foul sewer within two years, there is no longer an economic case to offer financial incentives in the form of a grant.

Comparison with other Jurisdictions

- 5.20 In Guernsey, the wider community is paying through general taxation for new public foul sewers and the associated branch connections to be installed to the boundary of public land. In order to connect to the new public foul sewer, each property owner has to divert foul drains from the former cesspit to join the branch sewer at the boundary of private property. Thus the owner of premises is only required to undertake and pay for work within the property to be connected and any shared private access. The current Grant and Loan Scheme provides financial assistance to owner-occupiers of domestic dwellings towards the cost of connection work within private property.
- 5.21 In Jersey, new foul sewers are also being laid at public expense but there is a minimum connection charge of £396.50, which applies to connections completed in the first 3 months after a new public foul sewer is laid. If the property is not connected within 3 months, the connection charge increases to the full cost of constructing the lateral branch sewer. If the property is not connected after 6 months the cost of tanker emptying services increases to £113 per load. As in Guernsey, the property owner is responsible for completing sewer connections within the property, but there is no financial assistance package equivalent to the Grant and Loan Scheme.
- 5.22 In the Isle of Man, new foul sewers are also being laid at public expense but there is a Drainage Communication Fee of £1,000 per unit of accommodation and no financial assistance equivalent to the Grant and Loan Scheme.
- 5.23 Public foul sewers in England are provided by commercial water companies and regulated by OFWAT and the Environment Agency. The local Council, the Environment Agency or a group of customers may requisition a public foul sewer project to connect existing properties. The project would then be

considered for inclusion in the overall capital programme funded by current and future sewerage charges, subject to OFWAT approval. Property owners wishing to connect to a new public foul sewer are required to install the sewer connection within private property and also to pay an infrastructure charge; the Wessex Water infrastructure charge is currently £266 per dwelling unit. There is no financial assistance equivalent to the Guernsey Grant and Loan Scheme.

- 5.24 The Guernsey taxpayer is providing first time sewerage on more generous terms than in comparable jurisdictions.

6.0 Conclusions

- 6.1 The current comprehensive package of measures provides both incentives to connect to the public foul sewer and sanctions for those who could, but choose not to, connect. To summarise:

- 6.2 The incentives to connect are:

- The convenience of the public foul sewer;
- To avoid cost of cesspit emptying;
- Reduction in the smells which arise from septic sewage;
- Environmental considerations such as a reduced risk of ground water pollution;
- Increased market value of property;
- Grant equivalent to one third of the standard cost of connection;
- Subsidised loan at 2% interest for two thirds standard cost of connection;
- Active and proactive management by the Public Services Department of both sewer extension schemes and individual cases.

- 6.3 The sanctions available to drive connection of buildings within 100 feet [30 metres] of a public foul sewer are:

- Substantially higher charge for emptying cesspits;
- Powers to compel connection of existing buildings by Section 12[2] of The Sewerage [Guernsey] Law, 1974;
- Powers to compel connection of new or extended buildings by Section 10 of The Sewerage [Guernsey] Law, 1974.

- 6.4 This package of measures has proved reasonably effective in achieving the

objective. The small grant and loan available to all owner-occupiers is not a major cost in the context of the public foul sewer network extension but the overall cost is significant when public sector funds are limited.

- 6.5 The sum of £120,000 per annum that would be paid to property owners in grants to encourage early connection [section 4.7 above] could be used to provide additional public foul sewers and thereby give the opportunity to connect 8 more homes every year. Should additional funds become available, the construction of additional public foul sewers may offer a more cost effective and fairer means to reduce the number of cesspits to be emptied.
- 6.6 It has been suggested that funds to continue the current Grants and Loan Scheme could be raised by increasing charges for cesspit emptying. Increasing the emptying charge by £1 per load could raise the required sum of £320,000 over 3 years. However, the majority of Board Members consider this would be an unfair tax on customers who had to remain on cesspit drainage in order to subsidise those customers who had the opportunity to connect their property.
- 6.7 The Public Services Department considers that there is no practical option but to bring the current scheme to a close. However, there are outstanding commitments under the current grants and loan scheme for connections to the public foul sewer laid under previously completed schemes and public foul sewers currently under construction. It will always be difficult to find an appropriate cut-off point because connections follow completion of each phase of sewer laying, coinciding with next phases of sewer construction.
- 6.8 The Department is proposing that routine financial assistance provided under the existing Grant and Loan Scheme be phased out during a Transition Period, commencing on the date of publication of this Billet d' Etat [8 September 2006] and ending on 31 December 2007. To fulfil existing commitments, the Department is proposing to limit both grant aid and loans to valid applications satisfying both of the following additional criteria:
- New applications for financial assistance will only be accepted for connections to public foul sewers existing or under construction on 8 September 2006;
 - In order to receive financial assistance, applications for connection to new public foul sewers must be received by 30 September 2007 and connections must be completed before 31 December 2007.
- 6.9 After the Transition Period financial assistance under the Grant and Loan Scheme would be available only in exceptional circumstances such as:
- When required by use of Section 10 of the Sewerage Law;
 - For groups of persons who are prepared to meet the cost of constructing a

foul sewer to serve their area in advance of any States project, but only where the Department considers the proposed sewer would be in the wider public interest.

- 6.10 The estimated outstanding liability for grants in connection with previous and current phases of public foul sewer construction in accordance with Paragraph 6.8 above is £240,000. The outstanding liability to provide new loans is estimated at £60,000, which can be met from the existing balance on the Loan Fund.
- 6.11 Although the Department is recommending phasing out the previous financial assistance package for routine circumstances, it is not at present recommending the introduction of a charge for connection. Thus terms for connection to new public foul sewers in Guernsey will remain more generous than those that apply in similar jurisdictions. The Department will keep this matter under review and may in future recommend the introduction of a connection charge.
- 6.12 Given that the Grant and Loan Scheme will be retained to provide for the exceptional circumstances set out in Section 6.9 above, the Department is taking this opportunity to update The Sewerage [Guernsey] Law, 1974 with the following minor amendments:
- Revising the maximum sum specified in Section 12 [2] (a) of the Sewerage Law from £1,500 determined in 1981 to the current equivalent value of £3,000;
 - To transfer to the Public Services Department responsibility for any loans that might be required under Section 12 [2] (b) of the Sewerage Law;
 - To make any consequential amendments to the Sewerage Law.

7.0 Recommendations

- 7.1 The Public Services Department recommends that the States:
- (i) Approve the phased suspension and limitation of financial assistance for connection to the public foul sewer as set out in Sections 6.8 and 6.9 of this report.
 - (ii) Rescind Resolutions 2, 6 and 7 on item 34 of Billet XIV, 1st October 1981 [attached as Appendix I] and substitute the following:
 - a. That financial assistance **may be** made by means of a grant not exceeding one third of the standard cost of connection and / or a loan, such that the total grant and loan shall not exceed the standard cost of connection; such loan to be for a maximum period of ten years at an interest rate of 2% per annum secured by a Bond

against the property of the borrower, which loan may include the legal expenses of taking out the Bond;

- b. That the sum specified in Section 12 [2] (a) of the Sewerage [Guernsey] Law, 1974, shall be increased from £1,500 to £3,000;
- c. With reference to Section 12 [2] (b) of The Sewerage [Guernsey] Law, 1974, to confirm that loans for foul sewer connection fall within the Mandate of the Public Services Department;
- (iii) To vote the Public Services Department a credit of £240,000 to cover the cost of foul sewer connection grants as set out in the report, such sum to be charged to its capital allocation.
- (iv) To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

Yours faithfully

William M Bell
Minister

Appendix I

States Resolutions: Billet XIV, item 34 - 1st October 1981**States Public Thoroughfares Committee - Foul Water Drainage - Connection of Individual Properties to Public Sewers, p 116:**

1. To approve in principle the provision of further financial assistance for the connection of properties to foul water sewers.
2. That such assistance **shall be** made by means of a grant equivalent to one-third of the standard cost of connection and a loan of two-thirds of the standard cost of connection, such loan to be for a maximum period of ten years at an interest rate of 2% per annum secured by a Bond against the property of the borrower, which loan may include the legal expenses of taking out the Bond.
3. To authorise the States Public Thoroughfares Committee to fix the standard cost of construction of a connecting drain with effect from the 1st July each year.
4. To approve in principle the charging of two different rates for the cesspit emptying service as follows:-
 - (a) a subsidised rate for properties which are not capable of being connected to a public sewer;
 - (b) a higher rate, based on the full cost of providing the cesspit emptying service, for buildings within 100 feet of a public foul water sewer, such higher rate to be imposed-
 - (i) in respect of sewers already laid at the date of the Resolution giving effect to this Proposition, with effect from the 1st January, 1984, and
 - (ii) in respect of sewers laid after the date of such Resolution, with effect from the date which is two calendar years from the completion date of such sewer;

save that the States Public Thoroughfares Committee in its discretion may in exceptional circumstances waive the requirement to connect within a specified period or face an increased charge for the cesspit emptying service.
5. To approve in principle that financial assistance on the basis of Proposition 2 above shall also be provided to the following:-
 - (a) persons required to connect to a public sewer a new building or extension to a building under the provisions of section ten of the Sewerage [Guernsey] Law, 1974, and

- (b) groups of persons who are prepared to meet the cost of the construction of a foul water sewer to serve their area in advance of any States project.
6. That the sum specified in paragraph [a] of subsection [2] of section twelve of the Sewerage [Guernsey] Law, 1974, shall be increased from £450 to £1,500.
 7. That the States Housing Authority shall administer the scheme for that further financial assistance on behalf of the States Public Thoroughfares Committee.
 8. That the responsibility for the cesspit emptying service and sewage emptying points shall be transferred from the States Board of Administration to the States Public thoroughfares Committee with effect from the 1st January, 1982, and that the budgets of those Committees shall be amended accordingly.
 9. That provision for the purchase of sewage emptying vehicles and discharge points shall in future be made in the Budget for Expenditure on Capital account of the States Public Thoroughfares Committee.
 10. That the sums of £115,000 being provision for the purchase of sewage emptying vehicles in 1982 and £122,000 being provision for the construction of sewage disposal points be transferred from the allocation for Expenditure on Major Capital Projects granted to the States Board of Administration by Resolution of the States of Deliberation on the 24th June, 1981, to the allocation for Expenditure on Major Capital Projects of the States Public Thoroughfares Committee.
 11. To vote the States Public Thoroughfares Committee a credit of £100,000 to cover the cost of grants and a credit of £200,000 to set up a fund to meet the cost of loans, which sums shall be taken from that Committee's allocation for capital expenditure on major projects.
 12. That loan repayments shall be credited to such fund for re-use for further loans.
 13. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

XV.- Whether, after consideration of the Report dated 27th July, 2006, of the Public Services Department, they are of the opinion:-

1. To approve the phased suspension and limitation of financial assistance for connection to the public foul sewer as set out in Sections 6.8 and 6.9 of that Report.
2. To rescind Resolutions 2, 6 and 7 on item 34 of Billet XIV, 1st October 1981 and substitute the following:
 - (a) That financial assistance **may be** made by means of a grant not exceeding one third of the standard cost of connection and/or a loan, such that the total grant and loan shall not exceed the standard cost of connection; such loan to be for a maximum period of ten years at an interest rate of 2% per annum secured by a Bond against the property of the borrower, which loan may include the legal expenses of taking out the Bond;
 - (b) That the sum specified in Section 12 [2] (a) of the Sewerage [Guernsey] Law, 1974, shall be increased from £1,500 to £3,000;
 - (c) With reference to Section 12 [2] (b) of The Sewerage [Guernsey] Law, 1974, to confirm that loans for foul sewer connection fall within the Mandate of the Public Services Department;
3. To vote the Public Services Department a credit of £240,000 to cover the cost of foul sewer connection grants as set out in that Report, such sum to be charged to its capital allocation.
4. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

SOCIAL SECURITY DEPARTMENT

BENEFIT AND CONTRIBUTION RATES FOR 2007

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

23rd August 2006

Dear Sir

Executive summary

1. This report is in five parts:

- | | |
|----------|--|
| Part I | <p><i>Social insurance</i>
recommends increases in the rates of social insurance benefits from 1 January 2007, recommends changes in contribution rates and upper and earnings limits necessary to fund the increased benefits and also in response to the resolutions of the States on the future economic and taxation strategy for Guernsey, and sets out the effect of these changes on the finances of the social insurance scheme</p> <p>recommends amendment to the Social Insurance Law, to allow certain Parts of that Law to be amended by Ordinance of the States;</p> |
| Part II | <p><i>Health Benefits</i>
reports on the pharmaceutical service and recommends an increase in the prescription charge;</p> |
| Part III | <p><i>Long-term care insurance</i>
recommends increases in the standard co-payment and benefit rates to take effect from 1 January 2007;</p> |
| Part IV | <p><i>Non-contributory services</i>
recommends increases in supplementary benefit requirement rates from 5 January 2007, recommends an increase in the benefit limitations and recommends a winter fuel allowance;</p> <p>recommends an increase in family allowance from 1 January 2007;</p> |

recommends an increase in the rates of attendance and invalid care allowances from 1 January 2007;

comments on the Community and Environmental Projects Scheme;

comments on the free TV licence scheme;

Part V ***Recommendations***

sets out a summary of the Department's recommendations.

Introduction

2. The Department has undertaken its annual review of the social security and health benefits paid under the various schemes for which it is responsible and, with the exception of medical benefit grants, will recommend increases in all benefit rates.
3. The most recent RPI figure for Guernsey was 3.4% for the year to 30 June 2006. The Department is recommending general increases of 3.4% in both the contributory and non-contributory benefits.
4. In bringing to the States its proposals for increases in benefits, the Department is mindful of the pressures on all States Departments to cut back on public expenditure, but mindful also that the Department is mandated to provide a social security coverage for all of the community, including its poorest members.
5. The Department remains committed to maintaining a good basic state pension as the platform for people's retirement income. While in the short-term, as proposed this year, an uprating of bare RPI can be justified, there is a longer term requirement to increase pension by more than RPI if pensioners are to share part of the prosperity of the community.
6. From a social security perspective, there are indicators of some reduction in the buoyancy of the economy. At the end of June 2006, there were 219 people unemployed, which was 22 higher than the previous year. There were 705 people on invalidity benefit (long-term sickness), which was 55 people more than the previous year. Such increases are indicators, among other things, of reduced employment opportunities for the people concerned.
7. While contribution income increased by 5.7% in 2005, this was below budget and below the sort of increases of between 6% and 8.9% that the Guernsey Insurance Fund has enjoyed each year since 2000. For the first quarter of 2006, contribution income was only 3.9% up on the same period in 2005, which again was below budget.

8. The resolutions of the States on 30 June 2006 (Billet d'Etat XI of 2006) concerning the Future Taxation and Economic Strategy for Guernsey have profound significance for the financing of the contributory benefits including the pension.
9. The States resolved, among other things, that from 2008 the States grant from general revenue to the contributory schemes should be reduced by increasing the upper earnings limit from its current figure of £36,036 per year to the equivalent of £100,000 for employers and to the equivalent of £60,000 for employees, self-employed and non-employed. The Department understands this to mean that both the £100,000 and £60,000 will be increased by two years' RPI before coming into effect from 2008.
10. The States also resolved that the employers' contribution rate should increase by 1% from 5.5% to 6.5% of earnings from 2008.
11. The States directed the Social Security Department to take account of the foregoing when bringing forward proposals for contribution and benefit rates for 2007, which are the subject of this report. Accordingly, the Department is recommending a substantial move, from 1 January 2007 towards the ultimate 2008 position. The Department recommends an increase to £53,664 per year in the upper earnings limits for employers, employees, self-employed and non-employed. This will enable an estimated reduction of £10m per year in the annual States grants from general revenue to the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long-term care Insurance Fund.
12. Although of course complying fully and speedily with the resolutions of the States, the Department considers it appropriate to make reference in this report to the departure by the States from the insurance principle that had been one of the fundamental principles of the contributory social insurance scheme since it became compulsory for all workers and employers in 1965. The majority of the members of the Department opposed the Policy Council's proposals to make higher earners pay contributions at a rate in excess of what was necessary to fund the pay-as-you-go scheme in order that the grant from general revenue could be reduced. There is going to be a need in future for social contributions to be further increased in order to pay the benefits, in particular the pensions. A step increase in the number of pensioners will be experienced in five years time, when the cohort of people born in 1946, after the Second World War, reaches pension age in 2011. Whereas the Department normally takes on around 800 new pensioners per year, that number is expected to increase to around 1,300 in 2011. It should be noted that not all of the additional pensioners will be living in Guernsey and not all of the pensions will be full rate pensions. However, the financial impact on the Guernsey Insurance Fund will be considerable.
13. The changing demography of Guernsey and Alderney and the implications on the finances of the Guernsey Insurance Fund have long been known and the impact on contribution rates has been estimated by the Government Actuary's

Department. What is, however, relevant is the recent slowdown in the increase of contribution returns and the impact on the operating surplus of the Fund, as detailed in paragraph 44 of this report.

PART I SOCIAL INSURANCE

Benefit Rates

14. Having regard to the income and expenditure for 2006 and the projections of income and expenditure for 2006 and 2007, the Department recommends increases in the rates of social insurance benefits, to take effect from 1 January 2007.
15. In this annual report to the States in each of the three years 2002 to 2004, inclusive, the Department recommended an increase in the single rate of old age pension of around 7.5%, which was substantially ahead of RPI. At the same time, the Department recommended a near freeze in the addition of pension in respect of a dependant wife. This was a strategy intended to alleviate the high incidence of single pensioner poverty that was identified in the report by the Townsend Centre for International Poverty Research.
16. In the 2005 report, the Department recommended, for 2006, a moderated increase of 5.4% in the rate of single old age pension and 3.5% for the increase for an adult dependant or married woman's pension based on her husband's contribution record. The Department reminded the States that the strategy of boosting the single pension, while both necessary and effective at a customer level, was very expensive for the Guernsey Insurance Fund, particularly when taking into account the increasing numbers reaching pension age.
17. Pension expenditure in 2005, was £59.6m, an increase of 8.7%. At the end of 2005, the Department was paying pensions to 13,415 pensioners worldwide, which was nearly 3% more than at the end of 2004.
18. For 2007, the Department recommends an increase of 3.4% for the contributory benefits. This will add £5.00 per week to the full rate single pension, will add £2.50 per week to the married woman's pension and will mean a £7.50 per week increase for a pensioner couple on full rate pension.

19. In accordance with the foregoing, the Department recommends increases in the contributory benefits, from 1 January 2007, as set out below:

Weekly paid benefits	2007 rates	(2006)
Old age Pension -		
Insured person	£151.50	(£146.50)
Increase for dependant wife or pension for wife over 65 (marriages pre 01-01-04)	<u>£76.00</u> £227.50	<u>(£73.50)</u> (£220.00)
Widow's/Survivor's Benefits -		
Widowed Parent's Allowance	£159.50	(£154.25)
Widow's Pension/Bereavement Allowance	£137.00	(£132.50)
Industrial Disablement Benefit -		
100% disabled	£122.00	(£118.00)
Unemployment, Sickness, Maternity and Industrial Injury Benefit	£111.58	(£107.94)
Invalidity Benefit	£135.94	(£131.46)

One-off grants		
Maternity Grant	£280.00	(£271.00)
Death Grant	£434.00	(£420.00)
Bereavement Payment	£1,375.00	(£1,330.00)

These rates of weekly benefit and grants apply to persons who have fully satisfied the contribution conditions. Proportionately reduced rates of benefit will be payable on incomplete contribution records, down to threshold levels.

Social insurance contributions

20. The percentage contribution rates for 2006, to which the Department recommends no change for 2007, are shown below for reference. In accordance with the resolutions of the States on the fiscal and economic strategy, the employers' contribution rate will need to increase from 5.5% to 6.5% from 1 January 2008.

Contribution rates for employed persons	2006
Employer	5.5%
Employee	<u>6.0%</u>
Total	<u>11.5%</u>

Contribution rates for self-employed persons	10.5%
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Contribution rates for non-employed persons under 65	9.9%
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Contribution rates for non-employed persons over 65	2.6%
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Upper earnings limit for employed people

21. As referred to in paragraph 11, the Department recommends that the upper earnings limit be increased from 1 January 2007 from £36,036 to £53,664 per year. For people paid weekly, this means an increase from £693 to £1,032 per week. For people paid less frequently than weekly, this means an increase from £3,003 to £4,472 per month.
22. The effect of the proposed new upper earnings limit on people who pay a contribution at the upper earnings limit is as follows:

2007 contributions (2006 in brackets)

Weekly Earnings	Contributions		
	Employer	Employee	Total
	5.5%	6.0%	11.5%
Upper Earnings Limit			
£ 1,032 or more	£56.76	£61.92	£118.68
(£693)	(£38.11)	(£41.58)	(£79.69)

Lower earnings limit for employed people

23. The Department proposes to increase the lower earnings limit from £97 per week to £100 per week. The corresponding monthly limit would be £433.33.
24. The effect of the above changes on a contribution at the lower earnings limit is as follows:

2007 contributions (2006 in brackets)

Weekly Earnings	Contributions per week		
	Employer	Employee	Total
	5.5%	6.0%	11.5%
Lower Earnings Limit			
£100	£5.50	£6.00	£11.50
(£97)	(£5.33)	(£5.82)	(£11.15)

Upper earnings limit for self-employed people

25. The proposed increase in the upper weekly earnings limit from £693 to £1,032 would mean that the upper annual earnings limit for self-employed people in 2007 would be increased from £36,036 to £53,664 (£1,032 x 52).

26. The effect of the proposed new upper earnings limit on self-employed people who pay a contribution at the upper earnings limit is as follows:-

2007 contributions (2006 in brackets)	
Annual earnings from self-employment	Contributions per week
	10.5%
£53,664 or more	£108.36
(£36,036 or more)	(£72.76)

27. Self-employed people who have applied to pay earnings related contributions, and whose earned income from self-employment was less than £53,664 per year, will pay less than the maximum contribution.
28. The proposed increase in the lower earnings limit from £97 to £100 per week would mean that the lower annual earnings limit for self-employed persons in 2007 would be increased from £5,044 to £5,200 (£100 x 52). The minimum self-employed (Class 2) contribution in 2007 would be £10.50 per week (£10.18 in 2006).

Upper income limit for non-employed people

29. As with the self-employed, non-employed contributors are liable to pay non-employed, Class 3 contributions, at the maximum rate unless application is made to the Department and authorisation given for the release of the relevant information by the Administrator of Income Tax Department. This allows an income-related contribution to be calculated
30. There are three main categories of non-employed contributions:
- (i) Full percentage rate contributions to cover social insurance, health service and long-term care insurance liabilities. This is the rate of contribution that all non-employed adults under the age of 60 are liable to pay, based on their personal income;
 - (ii) Health service and long-term care insurance contributions. These contributions go towards funding the pharmaceutical service, the medical consultation grants, the specialist health insurance scheme and the long-term care insurance scheme. This is the rate of contribution that a non-employed person between the age of 60 and 65 can opt to pay, based on their income. This option is usually taken by non-employed people approaching 65 who have already maximised their contribution records for old age pension. A similar option of a reduced rate is not available to self-employed or employed people who have already met the minimum requirements to receive a full pension. This situation has led to some claims of inconsistency. The Department will amend Regulations to the

effect that no new reduced rate contributions will be allowed from 1 January 2007. Those people who have already been granted the concession may continue to pay the reduced rate until they reach pension age.

- (iii) Specialist health insurance and long-term care insurance contributions. These contributions, which are payable by people aged 65 or over, go towards funding the specialist health insurance scheme and the long-term care insurance scheme.
31. The proposed increase in the upper earnings limit will mean that the upper income limit for non-employed contributions will also increase to £53,664 per year.
32. The Department recommends that the lower income figure at which non-employed contributions become payable be increased from £12,610 per year to £13,000 per year from 1 January 2007.
33. The following table shows the minimum and maximum weekly contributions payable in 2007 by non-employed people. People with income at some point between the upper and lower limits will pay pro-rata.

2007 contributions (2006 in brackets)

Contributions for non-employed persons			
Annual Income	Full rate (under 65)	Health service and long-term care only(60 to 65 optional) *	Specialist health and long-term care only (over 65)
	9.9%	4.2%	2.6%
	Weekly contribution		
Less than £13,000	zero	zero	zero
(less than £12,610)	(zero)	(zero)	(zero)
£13,000	£24.75	£10.50	£6.50
(£12,610)	(£24.01)	(£10.18)	(£6.30)
£53,664	£102.17	£43.34	£26.83
(£36,036)	(£68.61)	(£29.11)	(£18.02)

* This reduced rate will apply only to non-employed people between 60 and 65 years of age who have applied to pay the reduced rate before 1 January 2007.

Voluntary contributions

34. As shown above, where a non-employed person's annual income is below £13,000 that person will be exempted from the payment of contributions.

However, this could affect old age pension entitlement. A voluntary contribution which counts towards old age pension can be paid by or on behalf of non-employed people, resident in Guernsey and under pension age, with personal income below the lower income limit.

35. The voluntary contribution in 2006 is £13.82 per week. The rate is calculated by applying the social insurance contribution rate of 5.7% (not including health and long-term care) to the lower income limit. With a proposed lower income limit of £13,000 per annum in 2007, the voluntary contribution will increase to £14.25 per week.

Special (minimum) rate Class 3 contributions

36. A special rate non-employed contribution is payable by insured persons who would normally rely upon employed contributor's employment for their livelihood, but have a small gap in their record where they were neither employed nor receiving an unemployment credit. The rate of this contribution is aligned with the rate of the voluntary contribution. The special rate Class 3 contribution will, therefore, be £14.25 per week in 2007.

Annual impact on high earners of proposed new upper earnings limits

37. As, for the reasons explained earlier in this report, an extraordinary increase in the upper earnings limit and upper income limit is being proposed for 2007, the Department has a duty to make clear the impact of these proposals on high earning contributors, and their employers, as well as the impact on non-employed people with high income.
38. The Department considers that the impact is best shown by viewing the total annual contribution payments that contributors with earnings or income at or above the proposed new limit of £53,664 per year will be paying in 2007 and comparing that with what they are paying in 2006 with the upper earnings limit of £36,036 per year. Of course, in normal circumstances, there would still have been a recommended increase in the 2006 limit of £36,036, but of a more modest amount. The contributory social insurance scheme is principally financed on a pay-as-you-go basis, so the established practice has been for the upper earnings limit to increase each year, broadly in line with the amount by which benefit expenditure is expected to increase. As the Department will be recommending increases of around 3.4% in benefit rates from January 2007, and taking into account the growth in the number of people receiving benefits, particularly pensions, the upper earnings limit would, in normal circumstances, have been increased by 4.3% to around £37,596 per year.
39. For a person with earnings or income of £53,664 or more per year, the additional annual contributions are shown below:

Annual contribution	2006	2007	2007
Upper earnings limit	£36,036	£37,596 (normal)	£53,664 (proposed)
Employed person	£2,162	£2,256	£3,220
Employer	£1,982	£2,068	£2,952
Self-employed	£3,784	£3,948	£5,635
Non-employed under 65	£3,568	£3,722	£5,313
Non-employed over 65	£937	£977	£1,395

Income and expenditure on Guernsey Insurance Fund

40. The Guernsey Insurance Fund accounts for 2005 show income from contributions of £53.57m and from the States' Grant of £26.76m, giving a total income of £80.33m, before taking investment income into account. Total benefit expenditure and administration amounted to £75.50m, producing an operating surplus of £4.83m for the year.
41. The outcome for 2006 will, as always, be influenced by the benefit expenditure, the amounts by which contribution income increases and the level of the States' Grant to the Fund. The outcome for 2007 will be influenced, in addition to those normal factors, by the effects of the substantial increase in the upper earnings limits and the reduction in the States grant from general revenue. The extent of the changes for 2007 will mean that there is more uncertainty than usual on the financial outcome. The Government Actuary's Department has advised that the higher the upper earnings limit is lifted, the more caution should be attached to the reliability of estimated income, as outcomes can be influenced by the gain or loss of a relatively small number of contributors and also changed remuneration practices and avoidance.

Reduction in States grant from general revenue

42. The contribution rates quoted in paragraph 20 are consolidated rates which include contributions to the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long-term Care Insurance Fund. For illustration, the consolidated rate of 11.5% for an employed person is made up as follows:

Guernsey Insurance Fund	7.3% of earnings
Guernsey Health Service Fund	2.8% of earnings
Long-term Care Insurance Fund	1.4% of earnings
	11.5%

43. Each of those three funds currently receives a grant from general revenue. The amount of the grant varies by Fund but each grant is expressed and calculated annually as a percentage of the contribution income collected for each separate fund. There is no relation between the three grants, so the percentages below are not to be added to each other. It is no more than coincidence that their combined figure happens to be nearly 100%.

Fund	Current States Grant
Guernsey Insurance Fund	50% of contribution income
Guernsey Health Service Fund	40% of contribution income
Long-term Care Insurance Fund	12% of contribution income

44. In practice, this means that for every £1 of contribution income collected for the Guernsey Insurance Fund, a grant of 50p is paid to the Fund from general revenue. For each £1 of separate contribution income collected for the Health Service Fund, the grant is 40p, and for each £1 of separate contribution income collected for the Long-term Care Insurance Fund the grant is 12p.
45. The proposed new upper earnings limits of £53,664 will apply to contributions for all three funds and will allow a reduction of an estimated £10m from the States grants across the three funds.
46. As the grant to the Long-term Care Insurance Fund is of lesser significance to the funding of that scheme than is the grant to the Guernsey Insurance Fund, it is more quickly disposed of when the upper earnings limit is raised for that purpose. Indeed, raising the upper earnings limit to £53,664 per year removes the need altogether for a grant from general revenue to the Long-term Care Insurance Fund.
47. As the grants from general revenue to the Guernsey Insurance Fund and Guernsey Health Service Fund are of more significance to the funding of those schemes, raising the upper earnings limit to £53,664, allows a reduction in the percentages by which the grants are calculated, but still leaves substantial grants.
48. In order to produce the intended saving of £10m to general revenue in 2007, the Department recommends that these percentages of the States grants to the three funds, in respect of contributions falling due from 1 January 2007, shall be as follows:

Fund	2007 States Grant
Guernsey Insurance Fund	36% of contribution income
Guernsey Health Service Fund	27% of contribution income
Long-term Care Insurance Fund	0% of contribution income

49. Taking account of the foregoing, for the Guernsey Insurance Fund only, it is estimated that contribution income in 2007 will be £64.79m and the States grant will be £23.3m.
50. For the Guernsey Insurance Fund, it is estimated that:
- (1) there will be an operating surplus in 2006 in the order of £1.9m; and
 - (2) there will be an operating surplus in 2007 in the order of £1.6m.

51. The projected operating surplus for 2007 is a matter of concern, as is the speed with which operating surpluses of more than £9m in both 2002 and 2003 have reduced to the projected low level of £1.6m forecast for 2007. In view of the fundamental changes that are taking place in the financing of the social insurance scheme, the Department will be reviewing the adequacy of the contribution rates with the assistance of the Government Actuary's Department and in the light of experience with contribution returns received in early 2007 under the new arrangements.

Work rehabilitation officer

52. The Department has appointed a work rehabilitation officer on a 12 month temporary trial contract, utilising a permanent post that had become temporarily vacant. The aim of the trial is to examine the potential benefits of assigning an officer to work closely with individuals on long-term sickness or unemployment benefit and to help them return to the workforce. Work rehabilitation posts are found in most social security institutions, under a number of descriptions, including 'job coach'.
53. The results of the first 6 months of the appointment have been an unqualified success. The work rehabilitation officer has worked one-to-one with 32 people on long-term benefit and has helped 11 of these people find and hold on to a suitable job. Some of these people had been off work for several years. The officer describes her post as challenging but rewarding. To be successful, the work rehabilitation officer needs to be available to respond immediately to requests for help from people in the early days of their work placement.
54. The Department is very pleased with the early outcomes of this appointment, not only for the cost-effectiveness of the investment, but also because of the improvements to the lives of the people that the work rehabilitation officer has helped.

Amendment to Social Insurance Law

55. The Social Insurance Law is to be amended in accordance with Resolutions of the States on 28 September 2005 (Billet d'Etat XIV of 2005) concerning anti-avoidance provisions and single doctor medical boards and 30 June 2006 (Billet d'Etat XI of 2006), concerning a split upper earnings limit for employers and other contributors. The latter amendment is required in order to give effect to the social security aspects of the Future Taxation and Economic Strategy, as detailed in paragraphs 9 and 10 of this report.
56. Following discussion with HM Procureur's office, the Department considers that there would be merit in including in the amending legislation a further amendment that would allow certain parts of the Social Insurance Law to be

amended by Ordinance of the States, instead of by Projet de Loi. The Department recommends that:

- Part I - relating to classification, liability and collection of contributions;
- Part II - relating to benefits and benefit entitlement
- Part V - relating to the administration of benefits; and
- Part VI - relating to general and miscellaneous matters

should become able to be amended by Ordinance of the States. The power to amend by Ordinance would also apply to any consequential amendments necessary to other Parts of the Law, not listed above, for example in relation to the definition of terms.

PART II

HEALTH SERVICE BENEFITS

57. The health service benefits, costing £28.04m in 2005, were financed by £21.95m from contributions allocated to the Health Service Fund and £8.78m from the States' Grant from general revenue. There was an operating surplus of £2.70m for 2005.

Medical Benefit Grants

58. The total benefit expenditure on consultation grants in 2005 was £3.26m. This was a £215,000 increase on 2004, the increase being partly due to an increase of 2.5% in the number of doctor consultations for which a grant was claimed and partly because the first two months of 2004 had a consultation grant of £8, before it was increased to £12 from 1 March 2004. At the same time the nurse consultation grant was increased from £4 to £6 per consultation.
59. The grants were increased as part of an agreement with the Doctors' Primary Care Committee to have their headline consultation fees set by independent review for the three years 2004, 2005 and 2006.
60. The independent review resulted in a consultation fee of £35.50 being fixed for 2004, to be increased for both 2005 and 2006 by the year to the previous September RPI figure. This resulted in a standard consultation fee of £37.35 for 2005 and £38.75 for 2006, which is the last year covered by the review.
61. The Department will not be recommending any change in the level of the consultation grants for 2007.

Pharmaceutical Service

62. Prescription drugs cost a total of £13.80m in 2004, before netting off the prescription charges paid by patients. This was a decrease of 3.6% over the previous year.

63. The total cost of drugs to the Health Service Fund in 2005 was reduced by approximately £1,220,000 collected in prescription charges.
64. The Department was very pleased to report the reduction in drugs costs, as it was the first time in the thirty year history of the pharmaceutical service that costs have reduced. Over the last decade, the Department has been experiencing annual increases in drugs costs well above RPI. Annual increases of around 8% to 10% began to slow in 2004, when the increase was 4.9%. The reduction of 3.6% in 2005, which of course was a deeper reduction in real terms, was therefore a substantial achievement.
65. There were a number of factors involved in this reduction in drugs cost. The Department did benefit from a reduction in the price of some drugs as a result of the UK Pharmaceutical Price Regulation Scheme and other measures taken in the UK. But Guernsey achieved a deeper reduction in cost than that which was experienced in the UK. The Department is certain that additional reduction in pharmaceutical expenditure in Guernsey have resulted from the activities of the Prescribing Support Unit and the States Prescribing Adviser and, undoubtedly, the operation of the prescription white-list.
66. The number of items prescribed under the pharmaceutical service increased by 3.2% in 2005 to 1.13 million items.

Prescription charge

67. The prescription charge for 2006 is £2.50 per item. For a number of years the States have approved annual increases of 10p in the charge. The Department recommends the same increase this year, with a charge of £2.60 per item effective from 1 January 2007.

Specialist Health Insurance Scheme

68. 2005 was the third year of the new, 15 year contracts with the Medical Specialist Group and the Guernsey Physiotherapy Group. The cost of the specialist health insurance scheme was £10.93m in 2005. After netting off a recovery of £92,000 from the Health and Social Services Department in respect of reciprocal health expenditure for visitors, the cost to the Health Service Fund was £10.84m.

**PART III
LONG-TERM CARE INSURANCE**

69. Contribution income to the Long-term Care Insurance Fund was £11.53m in 2005. This was supplemented by a States grant equal to 12% of contribution receipts, in the amount of £1.38m. Benefit and administration expenditure for 2005 amounted to £8.98m, producing an operating surplus of £3.93m

70. The relatively large operating surplus, marginally less than the previous year, reflects the strategy for this particular fund, approved by the States prior to commencement of the scheme. The strategy is to have a front-loaded contribution rate of 1.4%, which should hold good for a minimum of 15 years, assuming no fundamental change in the range of benefits. This strategy involves the accumulation of reserves to provide an investment income to supplement future contribution rates.
71. The long-term care insurance scheme is in its fourth year of operation. The Department is pleased to see signs of increasing investment from the private sector in long-term care provision. This was one of the objectives of the insurance scheme, noting that the demographic ageing of the population would require increased provision of nursing care beds in particular.

Co-payment by person in care

72. It is a condition of entitlement to benefit under the long-term care insurance scheme that the person in care should make a co-payment. The 2006 co-payment is £140 per week. The Department recommends a co-payment of £147 per week in 2007.
73. It should be noted that the co-payment to the long-term care insurance scheme also sets the level of fee to be charged for accommodation in the States-run homes including the Castel and King Edward VII hospitals, the Maison Maritime and the Longue Rue House as well as the long-stay beds in the Mignot Memorial Hospital, Alderney.

Nursing care benefit

74. The maximum nursing care benefit is currently £581 per week. The Department recommends that it should be increased to £602 per week from 1 January 2007.

Residential care benefit

75. The maximum residential care benefit is currently £312.50 per week. The Department recommends that it should be increased to £322 per week from 1 January 2007.

Respite care benefits

76. Persons needing respite care in private sector residential or nursing homes are not required to pay a co-payment. The long-term care fund pays instead. This is to acknowledge the value of occasional investment in respite care in order to allow the person concerned to remain in their own home as long as practicable. It also acknowledges that persons having respite care also continue to bear the majority of their own household expenditure. The respite care benefits, therefore, are the sum of the co-payment and the residential care benefit or

nursing care benefit, as appropriate. The Department, therefore, recommends a nursing care respite benefit of up to £749 per week and a residential care respite benefit of up to £469 per week from 1 January 2007.

PART IV

NON-CONTRIBUTORY SERVICES FUNDED FROM GENERAL REVENUE

77. For the non-contributory benefits contained in this Part of the report, which are funded entirely from general revenue, the Department recommends general increases of 3.4%, with some small variations for rounding.

Supplementary benefit

78. Supplementary benefit expenditure, including public assistance, cost £11.05m in 2005, up £0.72m compared with 2004. The expected outturn for 2006 is £12.7m.
79. The significant additional expenditure has partly been the result of improved benefit rates for single pensioners, in accordance with the corporate anti-poverty plan, but also because of increasing numbers of claimants. Over the last 3 years, there has been an increasing number of people claiming benefit on the grounds that they are a single parent, or that they are unfit for work through sickness, or they are unemployed.
80. There are currently just over 400 single parents claiming supplementary benefit, approximately 270 who are unfit for work through sickness and approximately 110 who are unemployed and looking for work. The number of pensioners claiming supplementary benefit has remained stable over the last 3 years, at just over 500. These figures do not include adult or child dependants of the principal claimant.
81. From 1 July 2005, the coverage of the supplementary benefit scheme was extended to cover the people who, up to that date, were assisted by the Overseers and Procureurs of the Poor of the Island's parishes.
82. From the outset, the new system placed greater emphasis on helping claimants into work. The Department is pleased to report that jobseekers are now more likely to be treated consistently, paid accurately and given structured advice on how best to find employment. At the same time, the system is more resilient to fraud and quicker to react to spurious claims.
83. There were 92 people receiving public assistance when the changes took effect in July 2005. By December 2005, only 18 of those original claimants were still in receipt of benefit, although a steady influx of new claimants meant that overall claim numbers were slightly higher compared with December 2005.

84. As of June 2006, supplementary benefit was being paid to 108 jobseekers compared with 110 public assistance claimants in June 2005. It should be noted, however, that unlike public assistance the new system pays jobseekers living in Alderney and also those aged 60 to 64.
85. An expanded supplementary benefit scheme, encompassing all types of low-income household, makes it easier for the Department to respond to claimants' needs. At the same time, those few claimants who actively avoid a return to financial independence can be identified and held to account. When public assistance and supplementary benefit used to operate side by side, it was all too common for jobseekers to respond to threats of benefit reduction by getting signed off as sick and moving across to supplementary benefit. Now, movements within supplementary benefit sub-classification are closely monitored and contrived claims are tackled straightaway. As a result, the number of jobseekers who go sick has greatly reduced.
86. Under the former public assistance system, discretionary decisions, usually involving the reduction or cessation of benefit, could be made by any one of 24 Relieving Officials. Inevitably, different parishes treated claimants in different ways. Under the new system, there is a centralisation of decision making and, consequently, claimants are treated with a consistency that they deserve, but which was not available before by reason of the system. Furthermore, decisions are made with reference to the Supplementary Benefit legislation, which sets out the circumstances under which a person's benefit may be adjusted. The Public Assistance Regulations did not contain provisions of a similarly prescriptive nature.
87. Before the change of system, it was common for jobseekers to claim public assistance and for several weeks make very little effort to find work, only to have their benefit suddenly withdrawn. Now, jobseekers are given advance warning of impending reductions and an opportunity to make more of an effort. Financial penalties are increased week on week if no clear effort is shown.
88. As part of the application process, jobseekers claiming supplementary benefit are asked to sign an agreement that clarifies their rights and responsibilities. There was no guarantee, under public assistance, that such information was passed on to the claimant. Under the new system, jobseekers attend regular job-focused interviews with the Department's staff, who in turn liaise with Careers, Education, Youth Concern, NCH and other agencies in an effort to help the young unemployed in particular become work-ready. Staff work with claimants to produce CVs and weekly Action Plans, and regularly direct them to enquire about specific vacancies.
89. The ability to liaise with employers, landlords and other States agencies, which was much more difficult when parish claims were taken outside of office hours, allows staff to process claims with more accuracy than the Relieving Officials before them. And whereas the majority of the Relieving Officials calculated

benefit entitlement by hand, staff can rely on the Department's computer system, reducing over- and underpayments to virtually zero.

90. Under the new system, the Department's Visiting Officers visit jobseekers at home before asking the Administrator to award an allowance for rent. These visits were not a feature of the public assistance system, so their introduction – much like the automatic verification of bank balances – has made the new system more resilient to fraud. Bringing means-tested jobseeker benefits into line with the rest of supplementary benefit has meant that all claimants are now automatically awarded medical cover. Under the public assistance scheme, medical cover was only provided on request.
91. The Department is pleased to report that the integration of the former public assistance claimants, within supplementary benefit, has been a success. The Department notes that the number of claimants remains broadly the same as before, but there is a high turnover. Any increase in volume that may have come about through easier claim access at Edward T Wheadon House, in office hours, appears to have been compensated by the closer controls including, where appropriate, reductions of benefit and disqualifications.

Supplementary benefit requirement rates

92. The Department recommends increases in long-term supplementary benefit and short-term supplementary benefit from 5 January 2007, as shown below.

(a)

Long-term supplementary benefit (after payment of short-term rates for 6 months)	2007	(2006)
Married couple	£193.35	(£187.55)
Single householder	£133.85	(£129.55)
Non-householder	£103.85	(£100.45)
Member of a household -		
16 or over	£88.00	(£85.10)
12 - 15	£54.45	(£52.65)
5 – 11	£39.45	(£38.15)
Under 5	£29.15	(£28.20)

(b)

Short-term supplementary benefit rates (less than 6 months)		
Married couple	£156.75	£151.60
Single householder	£108.85	£104.60
Non-householder	£82.90	£80.40
Member of a household -		
16 or over	£70.40	£68.10
12 - 15	£43.55	£42.10
5 – 11	£31.60	£30.55
Under 5	£23.30	£22.55

A rent allowance, on top of the above short-term or long-term rates, will apply to people living in rented accommodation.

Benefit limitation- community

93. The benefit limitation, currently £287 per week, is the maximum level allowed for the combination of supplementary benefit and income from other sources, excluding family allowances. The Department recommends an increase in line with the general increase in benefits, taking the benefit limitation to £297 per week from 5 January 2007.

Benefit limitation- residential homes

94. Notwithstanding the existence of the long-term care insurance scheme, there needs to remain a benefit limitation applicable to a person residing in a residential home who does not satisfy the residence requirements for long-term care insurance and who needs, therefore, to rely on supplementary benefit assistance. The benefit limitation is currently £396 per week. The Department recommends an increase to £410 per week from 5 January 2007.

Benefit limitation- nursing homes and Guernsey Cheshire Home

95. Being necessary for the reason explained above, the Department recommends that the benefit limitation applicable to a person residing in a nursing home or the Guernsey Cheshire Home be increased from £570 per week to £589 per week from 5 January 2007.

Personal Allowance for residents of residential or nursing homes

96. The amount of the personal allowance for supplementary beneficiaries in residential or nursing homes is currently £22 per week. It is intended to allow modest purchases of, say, newspapers, confectionery, toiletries, small family presents and so on. The Department recommends that the personal allowance be increased to £23 per week from 5 January 2007.

Supplementary Fuel Allowance

97. A supplementary fuel allowance is paid from general revenue for 27 weeks from the last week in October until the last week in April of the year following. The fuel allowance was £17.00 per week for the 2005 to 2006 period.
98. Fuel costs have continued to increase sharply. For the year to March 2006, the price of fuel, light and power increased by 10.1%. While a large increase, this is less than the 17% increase for the year to March 2005.

99. The Department recommends a supplementary fuel allowance of £18.70 per week for the winter of 2006 and 2007, the increase of £1.70 per week being 10%.
100. It is estimated that the fuel supplement will cost £567,000 over the 27 week payment period.

Rounding of supplementary benefit entitlements

101. For administrative reasons which are no longer applicable, the supplementary benefit legislation provides for the amount of supplementary benefit determined as payable to a claimant to be rounded to the nearest 25 pence. The Department recommends that this rounding be abolished and that benefit should be paid in the amount calculated.

Cost of proposals for Supplementary Benefit

102. The expected outturn for supplementary benefit expenditure for 2006 is £12.62m. It is estimated that benefit expenditure in 2007, taking account of the above proposals, will increase by £1.15m to £13.77m.

Family Allowances

103. Family allowances expenditure amounted to £7.75m in 2005. The allowance is paid at the rate of £12.75 per week per child. The budget for 2006 is £8.08m. The Department recommends that the allowance be increased to £13.20 per week for 2007. It is estimated that this will increase the expenditure on family allowances in 2007 by £260,000 to £8.34m.

Income related family allowance

104. Action Area A of the Corporate Anti-poverty Plan requires the Department to investigate the feasibility of changing the family allowance system from its current, universal, flat-rate scheme into a scheme where the amount of the family allowance is related to family income.
105. The Department took note of the interest which several States members expressed in this area in the course of debate on the Corporate Anti-poverty Plan monitoring and update report (Billet d'Etat X of 2006). The Department is actively working on this project and has examined some options for redistribution at individual family level. The Department is currently working with the Treasury and Resources Department to produce a distribution of family incomes with which to evaluate the overall costs of the various options that could be applied at individual family level.

Attendance and Invalid Care Allowances

106. The Department recommends that attendance allowance and invalid care allowance be increased with effect from 1 January 2007 as shown below:-

2007 rates (2006 in brackets)

Attendance Allowance - weekly rate	£77.80	(£75.25)
Invalid Care Allowance - weekly rate	£62.80	(£60.75)
Annual income limit for both allowances	£72,000	(£69,000)

107. The annual income limit is the upper limit of income that a family may have, while still being entitled to receive either attendance allowance or invalid care allowance.
108. Benefit expenditure on attendance and invalid care allowances in 2005 was £1.92m. The budget for 2006 is £1.98m. It is estimated that the Department's proposals will increase expenditure in 2007 by £70,000 to £2.05m.

Community and Environmental Projects Scheme

109. The Department administers the Community and Environmental Projects Scheme (CEPS), which offers short-term employment opportunities for unemployed people. The Department contracts with the States Works for the necessary supervision of the work teams and also for the provision of transport, equipment and tools. The scheme usually operates to its maximum capacity of 16 participants across three work teams with the addition of up to 4 light work placements at the States Works Propagation Unit. A further 5 young people are currently participating in Kickstart programme, where they do a short-term work placement alongside a tradesman. Those 5 people receive wages under the CEPS scheme.
110. The CEPS work projects are of positive value to the community as well as being of benefit to the participants, who receive training and improve their prospects for employment. In the last year, the projects have included parks, gardens and maintenance work for several States Departments, for some schools, douzaines and charity-based playgroups. CEPS workers have continued to participate in the removal of litter from public areas, removal of noxious weeds and road cleaning. The teams have also provided labour for the kerbside recycling trial and other recycling initiatives. Participants may also be offered work trials or works experience placements with private businesses, based on their performance on the scheme. These placements have led to full time employment.
111. The hourly wage rates for the CEPS scheme are set by the Department and do not require a resolution of the States. For the information of States members, the 2006 and 2007 hourly and standard weekly rates are shown below:

	2007	(2006)
Under 18	£4.31	(£4.17 per hour)
For 36 hours	£155.52	(£150.12)
18 and over	£5.87	(£5.68 per hour)
For 36 hours	£211.43	(£204.48)

Free TV licences

112. In accordance with the resolutions of the States on the 2001 budget (Billet d'Etat XXIV of 2000), the Department administers a scheme to provide free TV licences for Guernsey and Alderney residents aged 75 or over and residents aged 65 or over and in receipt of supplementary benefit. Benefit expenditure under this scheme was £453,000 in 2005. The scheme is expected to cost £478,000 in 2006. The costs in 2007 will depend on the standard charge per TV licence made by the UK Department of Culture, Media and Sport.

PART V RECOMMENDATIONS

113. The Department recommends:
- (i) that the standard rates of social insurance benefits shall be increased to the rates set out in paragraph 19 of this report;
 - (ii) that for employed and self-employed persons the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit shall be £1,032, £4,472 and £53,664 respectively;
(paragraphs 21 and 25)
 - (iii) that for employed and self-employed persons the lower weekly earnings limit, the lower monthly earnings limit and the annual lower earnings limit shall be £100, £433.33 and £5,200 respectively;
(paragraphs 23 and 28)
 - (iv) that for non-employed persons the upper and lower annual income limits shall be £53,664 and £13,000 respectively;
(paragraphs 31 and 32)
 - (v) that the States grants to the contributory funds in respect of contributions falling due from 1 January 2007, shall be as follows:

Guernsey Insurance Fund	36% of contribution income
Guernsey Health Service Fund	27% of contribution income
Long-term Care Insurance Fund	0% of contribution income

(paragraph 48)

- (vi) that the Social Insurance (Guernsey) Law 1978, as amended, shall be further amended as described in paragraph 56 of this report;
- (vii) that the prescription charge per item of pharmaceutical benefit shall be £2.60;
(paragraph 67)
- (viii) that the contribution (co-payment) required to be made by the claimant of care benefit, under the long-term care insurance scheme, shall be £147 per week;
(paragraph 72)
- (ix) that care benefit shall be a maximum of £602 per week for persons resident in a nursing home or the Guernsey Cheshire Home and a maximum of £322 per week for persons resident in a residential home;
(paragraphs 74 and 75)
- (x) that respite care benefit shall be a maximum of £749 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home and a maximum of £469 per week for persons receiving respite care in a residential home;
(paragraph 76)
- (xi) that the supplementary benefit requirement rates shall be as set out in paragraph 92 of this report;
- (xii) that the weekly benefit limitations for supplementary benefit shall be:
 - (a) £297 for a person living in the community;
 - (b) £410 for a person who is residing in a residential home; and
 - (c) £589 for a person who is residing as a patient in a hospital, nursing home or the Guernsey Cheshire Home;
(paragraphs 93 to 95)
- (xiii) that the amount of the personal allowance payable to persons in residential or nursing homes who are in receipt of supplementary benefit shall be £23 per week;
(paragraph 96)
- (xiv) that a supplementary fuel allowance of £18.70 per week be paid to supplementary beneficiaries who are householders from 27 October 2006 to 20 April 2007;
(paragraph 99)
- (xv) that the rounding of supplementary benefit entitlements to the nearest 25 pence shall be abolished, with the result that benefit shall be paid in the amount calculated;
(paragraph 101)

- (xvi) that family allowance shall be £13.20 per week;
(paragraph 103)
- (xvii) that the rates of attendance allowance and invalid care allowance and the annual income limits shall be as set out in paragraph 106;
- (xviii) that the recommendations listed below shall have effect from the following dates:

Recommendations (i) to (v),(vii) to (x), (xvi) and (xvii)	1 January 2007
Recommendations (xi) to (xiii) and (xv)	5 January 2007

Yours faithfully

Mary Lowe
Minister

(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

XVI.- Whether, after consideration of the Report dated 23rd August, 2006, of the Social Security Department, they are of the opinion:-

1. That, with effect from 1st January, 2007, the standard rates of social insurance benefits shall be increased to the rates set out in paragraph 19 of that Report.
2. That, with effect from 1st January, 2007, for employed and self-employed persons the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit shall be £1,032, £4,472 and £53,664 respectively.
3. That, with effect from 1st January, 2007, for employed and self-employed persons the lower weekly earnings limit, the lower monthly earnings limit and the annual lower earnings limit shall be £100, £433.33 and £5,200 respectively.
4. That, with effect from 1st January, 2007, for non-employed persons the upper and lower annual income limits shall be £53,664 and £13,000 respectively.
5. That, with effect from 1st January, 2007, the States grants to the contributory funds in respect of contributions falling due from 1st January, 2007, shall be as follows:

Guernsey Insurance Fund	36% of contribution income
Guernsey Health Service Fund	27% of contribution income
Long-term Care Insurance Fund	0% of contribution income

6. That the Social Insurance (Guernsey) Law 1978, as amended, shall be further amended as described in paragraph 56 of that Report.
7. That, with effect from 1st January, 2007, the prescription charge per item of pharmaceutical benefit shall be £2.60.
8. That, with effect from 1st January, 2007, the contribution (co-payment) required to be made by the claimant of care benefit, under the long-term care insurance scheme, shall be £147 per week.
9. That, with effect from 1st January, 2007, care benefit shall be a maximum of £602 per week for persons resident in a nursing home or the Guernsey Cheshire Home and a maximum of £322 per week for persons resident in a residential home.

10. That, with effect from 1st January, 2007, respite care benefit shall be a maximum of £749 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home and a maximum of £469 per week for persons receiving respite care in a residential home.
11. That, with effect from 5th January, 2007, the supplementary benefit requirement rates shall be as set out in paragraph 92 of that Report.
12. That, with effect from 5th January, 2007, the weekly benefit limitations for supplementary benefit shall be:
 - (a) £297 for a person living in the community;
 - (b) £410 for a person who is residing in a residential home; and
 - (c) £589 for a person who is residing as a patient in a hospital, nursing home or the Guernsey Cheshire Home.
13. That, with effect from 5th January, 2007, the amount of the personal allowance payable to persons in residential or nursing homes who are in receipt of supplementary benefit shall be £23 per week.
14. That a supplementary fuel allowance of £18.70 per week be paid to supplementary beneficiaries who are householders from 27 October 2006 to 20 April 2007.
15. That with effect from 5th January 2007, the rounding of supplementary benefit entitlements to the nearest 25 pence shall be abolished, with the result that benefit shall be paid in the amount calculated.
16. That, with effect from 1st January, 2007, family allowance shall be £13.20 per week.
17. That, with effect from 1st January, 2007, the rates of attendance allowance and invalid care allowance and the annual income limits shall be as set out in paragraph 106 of that Report
18. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

PUBLIC ACCOUNTS COMMITTEE**INDUSTRY SUPPORT SCHEMES IN GUERNSEY**

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

28th July 2006

Dear Sir

1. Executive Summary

- 1.1 For many years, the States of Guernsey have promoted, supported and sponsored various Island industries. This report and the appended report from the National Audit Office (NAO), concentrates on the eighteen industry support schemes which are administered and controlled by the Commerce and Employment Department.
- 1.2 The National Audit Office carried out the review on behalf and at the expense of the Public Accounts Committee. They applied a series of questions in respect of each of the eighteen grants, subsidies and support schemes, in order to assess whether these schemes were still effective and met the objectives set for them. The NAO identified two schemes where savings should be achievable, five schemes where funding could be better targeted, and three schemes where objectives should be more clearly identified to ensure better use of public money.
- 1.3 The Committee believes that there is an opportunity to save or redirect some £500,000 from the reappraisal of the current industry support schemes. It is also of the opinion that there is scope to save more funds from schemes administered by other Departments and recommends that these should be similarly reviewed.

2. Background

- 2.1 As part of its contract with the States of Guernsey, the NAO carried out a review into Industry Support Schemes (report has been appended). This particular review was commissioned by the Audit Commission prior to the inception of the Public Accounts Committee.
- 2.2 The NAO report examined eighteen grants, subsidies and support schemes that are now the responsibility of the Commerce and Employment Department.

These were administered by the relevant committees prior to the review of government.

- 2.3 35% of the Commerce and Employment Department's budget is spent on financing industry support schemes - some 15% more than that spent by the Department on staffing. As a result of its concern over the high costs, the Department suggested that this was an area for a value for money study to be undertaken.
- 2.4 The NAO based its review on the application of SMART¹ criteria for setting objectives. These criteria are used within performance management to establish goals and, in the case of the industry support schemes administered by the Commerce and Employment Department, they have been applied to assess viability. Each scheme was looked at in turn to ensure that it was still necessary and had not run its natural course.
- 2.5 It has been some months since the review was carried out and the findings first highlighted in a draft report. Therefore, to ensure progress has been made, the Commerce and Employment Department has been developing new policies and procedures in relation to grants, subsidies and support schemes which are in line with the principles outlined in its Building Confidence document published in 2005.
- 2.6 As a result of the format of the final NAO report and the clear message on the direction that the schemes should take, it was considered unnecessary to proceed with the usual hearing process. Therefore, the Committee brings this report to the States detailing its views on the NAO report and makes its recommendations on the management of the schemes. The Commerce and Employment Department is reporting to the States on the actions it is taking in the administration of the various schemes now and in the future.

3 Administration of the Schemes

- 3.1 Funding is an essential part of all businesses and whether the business is small and new, or large and established, adequate finance is required for the majority of projects, purchases and expansions. Grants are a form of financial assistance which are offered to encourage organisations to undertake or to continue activities that would otherwise not necessarily happen. Although grants are normally non-repayable, it is unlikely that they would cover the whole of the project costs. Loans, on the other hand, involve the repayment of such financial support.
- 3.2 In the UK, 600 organisations offer more than 4000 grants to businesses. It is sometimes perceived that grants are provided to keep certain businesses going that would otherwise have failed.

¹ The SMART criteria is used for setting objectives to ensure that they are Specific, Measurable, Achievable, Realistic and Timely, stating when results are achievable and setting milestones against which progress can be monitored

- 3.3 This report focuses on eighteen grants, subsidies and support schemes administered by the Commerce and Employment Department alone or in conjunction with other States' Departments. It is disappointing that, over the passage of time, schemes introduced with a proper purpose may not have been clearly set up, may not be SMART by current standards, and may not have met their original objectives. It is also clear that a number of schemes had drifted along, with the recipients gratefully receiving the free or subsidised support from a perceived affluent state.
- 3.4 Under the previous system of government, the schemes were administered through five different States' committees. With the creation of the Commerce and Employment Department, the amount spent in supporting industry in Guernsey became more transparent within this Department's budget. In this respect, the NAO has identified two schemes where savings could be made, five schemes where finance could be targeted more effectively, and three schemes where clear objectives should be set to ensure that public money is targeted more effectively.
- 3.5 **Although not quantified in the NAO report, the Committee estimates that at least £500,000 per annum (dependent on life of scheme) can be saved or re-targeted by the Commerce and Employment Department through a re-appraisal of the schemes.**

Figure 1: Making more effective use of allocated funding

	Scheme	Amount of taxpayers' money involved in 2006 £000
Schemes where the Department has already identified likely savings	Cull cattle compensation	57
	Dairy farm management contract scheme 1	500
Schemes where limited resources might be used in a more targeted and effective way	Advisory support scheme	25
	Interest subsidy scheme	113
	Market development scheme	60
	Exhibition support scheme	65
	Transport links financial concessions	825

Schemes where public money might be targeted more effectively if clear objectives were set for the Department's expenditure	World Guernsey Cattle Federation grant	20
	Guernsey Enterprise Agency grant	50
	Support for events and activities	495
Total		2,210
NOTE: 1 Savings arising out of the dairy farm management contract scheme might be achieved by generating larger surpluses in the Dairy rather than through a reduction in payments under the scheme. There would then be a consequent net reduction in the total cost of support.		

Source: NAO Report "Industry Support Schemes in Guernsey - A Value for Money Review" January 2006, figure 5.

3.6 However, this is not the only Department through which the States of Guernsey financially supports non-States bodies and the Committee recommends that the same analysis should be carried out by all Departments to ensure that the schemes that they administer and grants that they award are still relevant, SMART compliant, and meet agreed objectives.

3.7 The Committee endorses the preface of the NAO report, in particular:

Figure 2

"Setting objectives which focus on the desired outcome of particular programmes or schemes help to ensure that scarce resources are directed to where they will have best effect. "

Source: NAO Report "Industry Support Schemes in Guernsey – A Value for Money Review" January 2006

3.8 In the current economic climate and in setting the 2006 budget, Departments were requested by the Treasury and Resource Department to:

Figure 3

"Consider very carefully their own priorities and how to save money".

Source: Billet D'Etat XXII, 14 December 2005, page 13 of the Budget Report

- 3.9 One area that all Departments should focus on and carefully consider is whether financial support is still required for non-States bodies. Each Department should follow the same process as that carried out by the Commerce and Employment Department in respect of each scheme they administer and/or under which they award grants. The questions asked were:

Figure 1

- “(a) Does the scheme have clear objectives?
- Did the scheme have a proper purpose when it was introduced?
 - Are the scheme’s objectives “SMART” by current standards?
- (b) Has the scheme met its objectives?
- (c) Does the scheme need re-appraisal?”

Source: NAO Report “Industry Support Schemes in Guernsey – A Value for Money Review” January 2006

- 3.10 The NAO report recommends the compilation of a list to be used to check the validity of new schemes to be introduced and the re-evaluation of mature schemes. Although the report recommended this for the Commerce and Employment Department, the checklist can be applied to any scheme, grant or sponsorship awarded by any Department:

Figure 2

- “
- (1) Establish the need for the scheme by conducting suitable market research, ensuring that injections of public money would really make a significant difference.
 - (2) Consider how any needs identified can best be met.
 - (3) Set clear and unambiguous objectives, which are SMART compliant.
 - (4) Set out the terms and conditions of each scheme in guidance to those seeking support.
 - (5) Make arrangements to monitor compliance with the terms and conditions of each scheme.
 - (6) Periodically assess the performance of each scheme against its objectives, taking account of any unintended consequences.
 - (7) Consider whether the objectives could be achieved more cost-effectively by different arrangements”

Source: NAO Report “Industry Support Schemes in Guernsey – A Value for Money Review” January 2006

- 3.11 3% (£9m) of all States' General Revenue funds supports non-States bodies, whether through grants, loans or sponsorship. Therefore, all Departments involved in awarding each and every form of support should assess whether the objectives of the beneficiaries complement the objectives of the schemes through which the funds are awarded, thus ensuring that these funds are used for the purpose intended and do provide best value for the States of Guernsey.
- 3.12 The rest of this report focuses on the schemes administered by the Commerce and Employment Department as reported in the NAO report.

4 Agriculture Schemes

- 4.1 Since 1998, total expenditure spent on industry support schemes has risen from £1,052,000 to £4,617,000 in 2005. 44% (£2,043,000) of that overall cost was attributed to supporting the agricultural industry - of which 95% (£1,951,000) related to the Dairy Farm Management Contract scheme, which has been the subject of a Scrutiny Committee investigation entitled "Milk Distribution Proposals".¹
- 4.2 Of the Agriculture schemes, eight did have a proper purpose when introduced and seven of them were SMART compliant. The scheme which was not SMART compliant was the payment received by the World Guernsey Cattle Federation for which there was no clear instruction as to the use of the funds.
- 4.3 Two schemes relate to the outbreak of BSE in the UK in the 1980s and the slaughter of cattle. The NAO recommends that the BSE compensation scheme remains dormant and that the payment of compensation for the slaughter of older cattle be reappraised.
- 4.4 One scheme, set up in 1966, relates to Farm Loans. The Commerce and Employment Department needs to re-evaluate this scheme to ensure that it is serving the purpose for which it was intended and whether it should only relate to waste management. The Commerce and Employment Department saw this as a very important area and did devote funds from the Farm Loans Scheme to the Farm Waste Systems Grant Scheme – presumably to provide outright grants rather than loans for this work. This latter scheme achieved its purpose and was closed in 2004.
- 4.5 Two of the schemes are environmental initiatives – i.e. organic milk and habitat enhancement pilot schemes. The organic milk scheme will be reconsidered at the same time as the re-appraisal of the Dairy Farm Management Scheme. The Commerce and Employment Department operated the pilot scheme for two years and is considering what environmental enhancement measures are now appropriate.
- 4.6 The NAO identified that costs can be saved through the Dairy Farm Management Scheme by generating larger surpluses in the Dairy rather than by means of a reduction in payments. However, the cost element of the Scheme has been the subject of a review by the Scrutiny Committee and,

¹ Further details on review and report are available via the Scrutiny Panel website on www.gov.gg.

therefore, the Public Accounts Committee has no comments to make in this area.

- 4.7 The remainder of the policies within the Dairy Farm Management Scheme will be considered in the States Report by the Commerce and Employment Department.
- 4.8 What is questionable is whether the Commerce and Employment Department should continue to promote habitat enhancement when this is not restricted to farm land and such promotion may be better suited to the role of the Environment Department.

5 Horticulture Schemes

- 5.1 There are three schemes supporting the horticulture industry which again is an industry that has a long association with the Island of Guernsey. Horticulture was first introduced in Guernsey towards the end of the eighteenth century, initially in the production of grapes and then tomatoes. More recently, the industry has concentrated on growing plants and flowers.
- 5.2 The contraction of the industry is reflected in the reduction of support from £610,000 in 1998 to £144,000 in 2005. The NAO report has indicated that there is much to do in revisiting the schemes supporting horticulture as they all need re-appraisal to cater for current needs and to ensure that resources are used in a more targeted and effective way.
- 5.3 One scheme that has survived is the Horticultural Interest Subsidy Scheme. This scheme is used to encourage the building of new glass and although SMART compliant, the scheme has not met its objectives. The NAO has recommended the re-appraisal of this scheme.
- 5.4 The Commerce and Employment Department will have the difficult decision on setting policy in this area due to the historical background of horticulture and the maintenance of economic diversity in the Island. This has also to be set against the most effective use of the finances available.

6 Industry Schemes

- 6.1 The Board of Trade and Industry, constituted by States' Resolution in 1984 to 1987, was set up to promote and develop the growth of commerce and industry in Guernsey. Although there have been many changes of name over the years, the focus on developing industry in Guernsey has remained.
- 6.2 The five schemes relating to Industry total £1,147,000 which is just under 25% of the total amount of spend by the Commerce and Employment Department on support schemes during 2005. In 1998, expenditure was only £88,000. This increase was attributed to the introduction of new grants in 2001 and 2002 and to encouraging the development of the finance industry.
- 6.3 The schemes did not reflect well against the questions raised in the NAO report, with none of them having four 'yes' answers to scheme objectives,

SMART compliance, and full re-appraisal although they all did have a proper purpose when first introduced.

- 6.4 Three of the schemes relate to direct grants financing the support or promotion of Industry. The Guernsey Enterprise Agency grant has no conditions attached to it and although the Agency does help new enterprises, the arrangements concerning use of the grant are not regularised with the Commerce and Employment Department.
- 6.5 The third biggest scheme after the Farm Management and Transport relates to Guernsey Finance. From 2001 to 2004, the cost of the Guernsey Promotions Agency (renamed Guernsey Finance) was equally shared with member firms of the Guernsey International Business Association. In 2005, the Commerce and Employment Department financed the full cost of running Guernsey Finance totalling £650,000. In addition, rent-free accommodation is provided to Guernsey Finance, estimated at a notional cost of £40,000. Guernsey Finance appointed a new Chief Executive in mid 2005 and is introducing new initiatives.
- 6.6 Another sizable grant, amounting to £404,000 in 2005, is awarded to the Guernsey Training Agency from the Commerce and Employment Department budget and matched by industry through the Guernsey Financial Services Commission. This Agency is set up to procure and facilitate training for staff in commerce, industry and finance in Guernsey. The Agency is reviewed every three years and so at the time of the next review, it is important that the Department carefully considers whether the objectives set for the Agency have been met and whether the grant is SMART compliant.

7 Events and Activities

- 7.1 Support for events and activities is now jointly financed by the Culture and Leisure and Commerce and Employment Departments. General support has cost between £240,000 and £310,000 since 1998 with additional expenditure spent to promote specific events added to this; such as £131,000 in 2002 for the Victor Hugo bi-centenary celebrations and £213,000 in 2005 on Sea Guernsey.
- 7.2 Although the total budget has decreased from £568,000 in 2005 to £495,000 in 2006, it still relates to over 10% of the total budget spent on grants, subsidies and support schemes by the Commerce and Employment Department. The NAO has stated that this support needs reappraisal as it is not SMART compliant and the objectives have not yet been met. This is the most high profile of all the schemes in this report as support for events affects the whole of the community although such support was originally introduced to attract tourists.
- 7.3 Policies relating to the support for events and activities are being drawn up by the Events Group, a new forum set up comprising cross Department representatives. Clear measurable objectives will be set out to ensure that value for money is achieved.

8 Transport Scheme

- 8.1 Financial concessions were introduced in 2002 to encourage new air routes into and out of Guernsey. Expenditure in 2002 was £512,000 and by 2005 this was £715,000, some 15% of the total spent on industry support schemes in 2005 by the Commerce and Employment Department.
- 8.2 This scheme was originally administered by the Transport Board, but has now been subsumed by the Commerce and Employment Department which has set up the External Transport Group to review policies for transport links and route development. This is a cross Department group comprising representatives from Commerce and Employment and Public Services Departments. The group is currently considering market trends and possible future approaches to developing air routes which may lead to changes in the way in which this scheme is operated.

9 Conclusion

- 9.1 In times of economic restraint Departments have to consider whether the services and schemes they provide are suitable and necessary in the current economic climate.
- 9.2 The NAO review on Industry Support Schemes in Guernsey has indicated that schemes often continue without review for many years and whilst the States of Guernsey had funds to support such schemes, this may no longer be the case. Well targeted support encourages economic development and wealth in the community which then results in greater income tax returns and a general well-being.
- 9.3 The Public Accounts Committee endorses the NAO conclusions. While the schemes now being administered by the Commerce and Employment Department did have a purpose when they were first introduced, some do not have clear objectives expressed in terms of the impact that they were set out to achieve, i.e. they are not SMART compliant.
- 9.4 The NAO concluded that it was difficult to assess whether public money was still being spent effectively and recommended that a number of schemes be re-appraised by the Commerce and Employment Department. The Public Accounts Committee is of the opinion that other Departments continue to administer schemes and award grants which may no longer serve the purpose originally intended or make best use of the limited States' funds.
- 9.5 Although the review concentrated on Commerce and Employment Department, the theory applied to assessing the value of the schemes can be used to measure any scheme or grant throughout the States.
- 9.6 The Public Accounts Committee estimates that around £500,000 could be saved or re-invested if all the schemes promoted and administered through the Commerce and Employment Department were fully effective. It also concludes that further funds could be released if all Departments carry out a full appraisal of schemes and grants administered by them (notwithstanding those that are currently being reappraised).

10 Comments of the Commerce and Employment Department

- 10.1 The normal procedure for Public Accounts Committee reports is that Departments have the opportunity to convey their views on the report findings and recommendations.
- 10.2 The Commerce and Employment Department has been reviewing policies and objectives, ensuring SMART compliance, and assessing the value for money of the schemes and grants which it administers.
- 10.3 As a result of this work, the Commerce and Employment Department has produced a States Report, which can be found later in this Billet D'Etat, with their proposals on the way in which the schemes should operate, reassessing their need and with clear proposals on how the objectives of the schemes should be amended to cope with the demands of the Island's economy.

11 Recommendations

- 11.1 The Public Accounts Committee recommends the States:
 - a) To note the report.
 - b) To note that the Public Accounts Committee will monitor and review the action taken by the Commerce and Employment Department in respect of their schemes' objectives and procedures and may report back to the States if appropriate.
 - c) To recommend that all Departments review the way in which they award schemes and grants to ensure that best value is achieved from States funds in accordance with the theories and procedures outlined in this report.
 - d) To note that the Public Accounts Committee will monitor and review such action taken by all Departments.

Yours faithfully

Chris Brock
Vice Chairman

N.B. The full National Audit Office Report, which is appended to this Report, is published separately.

Extract from National Audit report entitled “Industry Support Schemes in Guernsey - a Value for Money Review” - January 2006

“PREFACE: THE IMPORTANCE OF CLEAR OBJECTIVES FOR PUBLIC EXPENDITURE

1. Public bodies need to set clear objectives when spending public money. Setting objectives which focus on the desired outcome of particular programmes or schemes helps to ensure that scarce resources are directed to where they will have best effect. Objective setting also enables performance to be evaluated and changes can then be made in good time if the desired results are not being achieved.
2. For grant and support schemes, good value for money is unlikely to be secured if grantor and grantee do not know the exact purpose of a scheme and how progress and outcomes are to be monitored and evaluated. There is a risk that ineffective schemes will continue to be maintained year after year simply because no means are available to measure success or failure. There is also a real risk that different schemes might overlap with each other or even have conflicting aims and purposes.
3. Objectives should be expressed in terms of the **specific** needs to be met and the **specific** results to be achieved. They should accord with the well-accepted SMART criteria, as set out in Figure 1.

Figure 1: The SMART criteria for setting objectives

S	Specific	The objectives should specify clearly what the scheme aims to achieve.
M	Measurable	Performance against the set objectives must be measurable.
A	Achievable	The objectives must be achievable.
R	Realistic	The objectives must be realistic.
T	Time-based	The objectives must be time-based. They should state when results are to be achieved and set milestones against which progress can be monitored.

4. The objectives for a grant or support scheme should be made plain from the outset and those wishing to benefit from the scheme must sign up to them. The objectives should be reflected in the terms and conditions under which support is made available. Appropriate performance measures and targets also need to be agreed so that the impacts and outcomes of schemes can be evaluated on a regular basis and the continuing need for support reviewed from time to time. The basis on which grants or loans are made available should be clearly specified and arrangements made to confirm and provide evidence that terms and conditions are being met. Public bodies might require grantees to submit annual accounts and documentary proof of their expenditure under a scheme. Inspection rights might be made a condition of grant. Independent assessments might be commissioned. Monitoring should not be excessive, however. It should be proportionate to the level and type of funding provided.
5. Public bodies need to review their grant and support schemes periodically to satisfy themselves that they are still relevant and that objectives are being achieved. Such reviews should include a consideration of whether objectives could be secured more effectively or more cheaply in different ways. It is also be important to examine whether a scheme has had unintended or adverse consequences.
6. Public bodies should also maintain adequate records for each grant or loan scheme. These records should include:
 - A clear account of the reasons why support was considered necessary and the evidence on which that conclusion was based.
 - An analysis of the different ways and respective costs and benefits of providing that support.
 - The specific objectives set for the scheme, which should be SMART compliant.
 - The terms and conditions under which support would be made available.
 - The performance measures, targets and milestones with which the scheme's outcomes would be evaluated.
 - Notes of any interim assessments made of the scheme and whether objectives were being achieved.
 - The results of any reviews undertaken of the continuing need for the scheme, including a note of when the scheme would next be reviewed.
 - Copies of any external assessments made of the scheme or the grant-aided organisation, including annual accounts, business plans, and so on....."

(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

XVII.- Whether, after consideration of the Report dated 28th July, 2006, of the Public Accounts Committee, they are of the opinion:-

1. To note the Report.
2. To note that the Public Accounts Committee will monitor and review the action taken by the Commerce and Employment Department in respect of their schemes' objectives and procedures and may report back to the States if appropriate.
3. To recommend that all Departments review the way in which they award schemes and grants to ensure that best value is achieved from States funds in accordance with the theories and procedures outlined in this report.
4. To note that the Public Accounts Committee will monitor and review such action taken by all Departments.

COMMERCE AND EMPLOYMENT DEPARTMENT

REVIEW OF INDUSTRY SUPPORT SCHEMES

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

20th July 2006

Dear Sir

Executive Summary

In June 2004, the Department enlisted the assistance of the National Audit Office, in carrying out a review of the various subsidy schemes and grants that it had inherited as a result of the review of the machinery of government. The Department is reviewing each of the schemes against a set of principles that guide the Department's decisions with regard to financial incentives and this report provides an update on those reviews and outlines the Department's intentions with regard to each of the schemes.

The Department has consulted widely during the review process, which has included discussion on the development of future schemes where government intervention in the form of financial incentives is required to stimulate future economic development.

The Department does not anticipate that general revenue savings will be made as a result of its ongoing review of support schemes and considers, without commitment, that further funds may need to be re-directed towards financial incentives that are aimed at stimulating economic development particularly outside of the financial services sector.

As a result of this review, this report recommends to the States that the Advisory Support Scheme should cease in 2009 and that the Horticultural Interest Subsidy and Market Development Schemes should cease in 2007. The report also informs the States of the Department's decisions to make significant changes to the Business Link Wessex scheme and to close the current Exhibition Support Scheme. An update is also given on the progress that is being made in bringing the remaining schemes in line with the principles upon which future schemes should be based.

Introduction

1. This report results from a joint review, carried out by the Commerce and Employment Department and the Public Accounts Committee (PAC), into industry support schemes administered by the Department on behalf of the States.
2. The States, and the Commerce and Employment Department in particular, is in a unique position in being able to stimulate economic development and the provision of financial incentives is one of the many ways in which this can be achieved. Following the review of the machinery of government in May 2004, the Department inherited various grants, subsidies and support schemes that had previously been the responsibility of the Committee for Horticulture, Agriculture and Countryside Board, Tourist Board, Board of Industry and Transport Board.
3. Whilst the Department recognises that there are circumstances where financial incentives in the form of grants, subsidies and support schemes are in the economic interests of the Island as a whole, it has also identified that the historic approach to providing incentives had, in some cases, developed in an inconsistent and piecemeal manner. As a result the Department, in June 2004, enlisted the assistance of the National Audit Office (NAO), in carrying out a review of the various subsidy schemes and grants that it had inherited.
4. Whilst the evaluation of each individual scheme is a continuing process, the overall review has now been completed. The Department has worked closely with the PAC (who inherited the activities of the NAO) in producing the NAO Report – *Industry Support Schemes in Guernsey*. This is the second of two related States Reports, the first of which is published by the PAC and can be found earlier in this Billet d'État.
5. This report is designed to:
 - provide an update on the review of the schemes detailed in the NAO Report;
 - outline the Department's intentions with regard to each of those schemes; and
 - highlight the principles that the Department will apply to any future schemes or grants aimed at incentivising business activity.
6. The overall review covered all industry sectors, however the schemes that support Agriculture exclusively are the subject of the Department's wider review of Dairy farming. This wider review has been in abatement as part of the Scrutiny process and it has therefore not been appropriate to carry out consultation as part of a full review of these schemes. As a result they are not commented on as part of this States Report, however the Department intends to report back to the States on these schemes as part of its wider review of Dairy farming later this year. The schemes that will be commented on are listed below:

- Dairy Farm Management Contract Scheme
- Farm Loans Scheme
- Royal Guernsey Agricultural and Horticultural Society (RGAHS) and World Guernsey Cattle Federation (WGCF) Grants.
- Organic Milk Support Scheme
- Cull Cattle Compensation Scheme
- Farm Waste Systems Grant Scheme
- Habitat Enhancement Pilot Investigation

7. The following schemes are considered as part of this report:

- Advisory Support Scheme
- Horticulture Interest Subsidy Scheme
- Market Development Scheme
- Business Link Wessex
- Exhibition Support Scheme
- Grant to Guernsey Enterprise Agency
- Grant to Guernsey Finance LBG
- Grant to Guernsey Training Agency Ltd
- Support for Events and Activities
- Airline Concessions

8. Some of the schemes that are reviewed have been the subject of previous States Reports and relevant States resolutions. Other schemes were set up, modified and approved by the Boards of various Committees over time.

Principles of Intervention and Incentivising Business

9. The Department published its Building Confidence document in April 2005 which outlined its approach to supporting the Island's economy. A number of principles were established in that document, including some that relate specifically to the role of government in intervening in business activity. Grants, subsidies and support schemes are considered to be interventions and, in carrying out this review, the Department adopted the following principles:

- Government should refrain from intervention and interference where possible.

- Government, when it does consider it necessary to intervene, should do so only after full consultation with industry and the setting of goals that can be measured and on which progress can be regularly monitored.
10. Intervention can be perceived to have both positive and negative effects on business activity and the principles outlined above have underpinned the Department's approach to all forms of intervention. With respect to grants, subsidies and support schemes the Department outlined, in its Building Confidence document, a set of key principles that would apply to all incentive schemes. The principles adopted are:
- There will be a general presumption against subsidies.
 - Where subsidies can be shown to add value, they should be used sparingly, they should be targeted and transparent and the change in business activity should be measurable.
 - As a general principle, financial support designed to stimulate economic activity should reduce over time – rather than become a permanent feature.
 - Where appropriate, schemes should be founded on the partnership principle with the recipient meeting a substantial portion (50%+) of the subsidy.
 - Support packages should be time limited and subject to a “sun-set” clause in order to avoid past experience when measures have remained in place long after the economic circumstances they were designed to address have changed.
 - Support should not serve to artificially prolong the life of businesses that do not have a viable future.
 - Support schemes will only be used to support business development activities, and not activities that are recurring running costs of a particular business.

NAO Recommendations

11. The Department agrees with the principles regarding the establishment of grants, subsidies and support schemes that are detailed in the NAO Report¹ and that have been supported by the PAC. In reviewing existing schemes and in considering future schemes, the Department has therefore also adopted the recommendations made in the NAO Report, which are:
- Establish the need for the scheme by conducting suitable market research, ensuring that injections of public money would really make a significant difference.
 - Consider how any needs identified can best be met.

¹ Preface, Paragraphs 1 – 6.

- Set clear and unambiguous objectives, which are SMART compliant.
- Set out the terms and conditions of each scheme in guidance to those seeking support.
- Make arrangements to monitor compliance with the terms and conditions of each scheme.
- Periodically assess the performance of each scheme against its objectives, taking account of any unintended consequences.
- Consider whether the objectives could be achieved more cost-effectively by different arrangements.

Development of Future Schemes

12. During the review process, and in line with the States resolutions on the corporate tax debate, which directed that a high priority be given to identifying initiatives which are favourable to the development of economic sectors other than the financial services sector, the Department is in the process of consulting with industry representative groups to identify areas where States financial intervention may be used wisely to stimulate real economic development opportunities.
13. The principles outlined above have been endorsed during the consultation and have formed the basis for discussions on the development of future schemes. Where government intervention in the form of financial support is required to stimulate future economic development, the Department intends to work closely with industry representatives, the Policy Council and the Treasury and Resources Department in bringing forward proposals that are built on those principles and that are fully justifiable within the context of future general revenue funding restrictions.
14. The Department does not anticipate that general revenue savings will be made as a result of its ongoing review of support schemes, rather that improved value will be generated through the reviews. Where a scheme has now ceased, the Department intends to redirect the previously budgeted funds into future schemes. The Department considers, without commitment, that further resources and incentive funds may need to be re-directed towards various initiatives that are aimed at stimulating economic development in the future.

Review of Existing Schemes

15. This section gives an update on the review, against the principles outlined in paragraphs 10 and 11 above, of each of the support schemes examined in the NAO Report and outlines the Department's intentions with regard to each of them. This report should be read in conjunction with the relevant paragraphs in the NAO Report, which give the details of each scheme and those details are not repeated here.

16. As detailed under each of the schemes below, the Department has consulted widely during the review process, both with industry representative groups and with users of the schemes under review. That consultation now continues as the Department considers where States funding may be required to stimulate economic development in the future.

Advisory Support Scheme

(Details of the scheme can be found in the NAO report, paragraphs 2.2–2.4)

17. In general terms there has been a decline in the size and economic value of the horticulture industry but it must be stressed that, within this sector, there are a number of very successful businesses that have exciting future prospects. As with other industry sectors, many of these businesses have developed into niche markets and/or are successfully exploiting developing technologies. These businesses, as would be expected, have strong business models that are not reliant on long term States funding in order to sustain a viable future.
18. The Department consulted with the GGA, individual growers and the providers of technical advice services to the industry as part of the review of the Advisory Support Scheme. In reviewing the scheme against the principles outlined in paragraphs 10 and 11 above, it is apparent that many of those principles do not apply to this scheme in its current form.
19. Notwithstanding that, the Department acknowledges that the availability of this scheme has stimulated the uptake of sound technical advice across a large number of horticultural businesses as was its objective and it has had a positive impact on the overall sustainability of the sector. Within the sector, there is a good level of uptake of this scheme and, for some businesses, a certain degree of reliance on the subsidy that is provided.
20. Given the points made above, and particularly that the cost of obtaining technical advice is a recurring running cost for any business within any sector, the Department cannot justify the continuation of this scheme in the long-term. However, given the current usage of the scheme, the Department recommends that it be phased down over the period 2007 and 2008 in order that those businesses reliant on the scheme can adjust. The Department recommends that the current subsidy level of 50% remains in place for 2007, that this be reduced to 35% with effect from 1st January 2008 and that the scheme ceases entirely with effect from 1st January 2009.

Horticultural Interest Subsidy Scheme

(Details of the scheme can be found in the NAO report, paragraphs 2.9–2.15)

21. The Department has analysed the use of this scheme over recent years and, following consultation with the GGA and directly with growers, has concluded that the scheme provides little incentive in encouraging business development.

Investment in capital projects is very limited across the industry and where successful businesses are continuing to invest; the availability of this scheme is often not material to the decision to invest.

22. During the consultation period, and given its view that the horticulture sector did not justify this exclusive support arrangement, the Department considered extending the existing scheme to all light industrial export businesses. However, this would only serve to extend a scheme which already operates outside of the Department's principles, and those recommended by the NAO, on which future schemes should be based.
23. Given that the potential beneficiaries of this scheme are those successful, expanding businesses that are least in need of government support, the Department cannot justify the continuation of this scheme for new investments. In 2003, the States agreed the Committee for Horticulture's recommendation that this scheme be continued "for a further 5 years". In the light of this current review, the Department recommends that the scheme should be closed to new entrants with effect from 1st January 2007. Where a business has already entered into the scheme, the Department intends to honour previous financial commitments in full, which will involve a "tail" of payments that will reduce as each existing agreement reaches the end of its payment schedule between now and 2015.

Market Development Scheme

(Details of the scheme can be found in the NAO report, paragraphs 2.20–2.25)

24. In reviewing this scheme, the Department consulted with the GGA and directly with growers to understand the recent pattern of applications and uptake. The marked reduction in use of the scheme has been attributed to the general reduction in activity aimed at developing new markets across the sector. Where businesses are developing new markets, the existence of this scheme is not a driver for that decision.
25. The potential to expand this scheme to include other industry sectors was considered as part of the review process, as was the option of adapting the existing scheme to better fit the principles that would apply to future schemes. In considering these options, the Department acknowledges that the basic premise for this scheme – that is reducing the financial risks associated with breaking into new markets – has some potential in economic development terms. The Department is therefore considering, in consultation with industry representative groups across non-finance sectors, how the merits of the existing scheme might be incorporated into a future scheme available more widely across all industry sectors aimed at the development of new markets.
26. Given that the existing scheme is not in line with the Department's principles, and those recommended by the NAO, on which support schemes should be based, the Department cannot justify the continuation of this scheme in its

current form. In 2003, the States agreed the Committee for Horticulture's recommendation that this scheme be continued "for a further 5 years". In the light of this current review, the Department recommends that the scheme should cease with effect from 1st January 2007.

Business Link Wessex

(Details of the scheme can be found in the NAO report, paragraphs 3.2–3.6)

27. The Department completed a full review of its provision of subsidy for access to the services of Business Link Wessex against the principles detailed in paragraphs 10 and 11 above. That review highlighted that, whilst the scheme is in line with some of the principles that the Department has adopted for support schemes, the economic benefit to the Island that has been delivered through funding the scheme may not justify its continued funding. The terms of the existing scheme have not called for that evaluation and therefore it has been difficult to assess the actual benefits derived; the pattern of use by users of the scheme also indicates that the benefits of the scheme have been limited.
28. Given the difficulty in measuring the historical benefits of the scheme, the Department concluded that significant future funding could not be properly justified. Consequently, in January 2006 the Department, in consultation with the Guernsey Enterprise Agency (GEA), decided that the existing scheme would still be available, but for a limited period. The GEA provides free advice and assistance to new and expanding businesses on behalf of the Department and, as such, will review the ongoing effectiveness of this service as part of its total package of support services for businesses. Should they consider that there is merit in continuing with the scheme, the Department will consider any future request for increased funding as part of the agreed service level agreement and overall funding requirement of the GEA. The Department has therefore transferred the limited funds for the scheme, ring fenced for this purpose, to the GEA as part of its grant funding provision.

Exhibition Support Scheme

(Details of the scheme can be found in the NAO report, paragraphs 3.11–3.15)

29. During 2005 the Department completed a review of the Exhibition Support Scheme, including an analysis of the pattern of use of this scheme in recent years. It was clear from that review that the scheme, in its existing form, did not meet the principles that the Department had adopted for support schemes, or those recommended by the NAO. The scheme, in many cases, had become a grant to supplement the recurring running costs of a number of successful mature businesses and in general the economic benefit to the Island that was being generated through this scheme could not be justified.
30. As a result, all users of the scheme were contacted regarding this review in August 2005 and, in October 2005, were made aware of the Department's decision to close the scheme. In view of the reliance that businesses may have

placed on the availability of funds, the Department decided that the scheme would close with effect from January 1st 2007, giving a phase out period of more than a year.

31. As part of the review process, the Department considered how this scheme may be adapted to better fit the principles that would apply to any future schemes. In terms of supporting business development activities, the Department recognises that some features of this scheme could have marked benefits for new enterprises seeking to promote local business in export markets. Consequently, the Department is currently engaged in consultation with various representative groups on the potential merits and conditions of a similar future scheme.

Grant to Guernsey Enterprise Agency LBG

(Details of the grant can be found in the NAO report, paragraphs 3.21–3.23)

32. Following the Department's review of the Guernsey Enterprise Agency (GEA) the grant funding has been confirmed as meeting the Department's own principles that guide such funding, as well as those recommended by the NAO, albeit that performance targets need to be reviewed.
33. The Department is in the process of developing a new service level agreement with the GEA that will detail the performance measures and grant conditions linked to future funding. The Department published its Building Confidence document in April 2005, which outlined its approach to supporting the Island's economy and included a number of areas where the GEA can add significant additional value in the future. In order to ensure that the Department's plans are delivered and that the GEA is adequately funded to do so, the Department intends to work closely with the GEA to monitor the success of various activities and in doing so, to continue to monitor the economic benefit derived through the grant funding. This improved process will be used in determining future grant funding provision.

Grant to GuernseyFinance LBG

(Details of the grant can be found in the NAO report, paragraphs 3.28–3.33)

34. The Department put into place the current structure of GuernseyFinance in June 2005 and, as such, it is in its youth. The grant funding has been reviewed by the Department and has been confirmed as meeting the Department's own principles that guide such funding, as well as those recommended by the NAO.
35. A key activity during the first year of the new organisation has been to work closely with industry on the development of strategic objectives focusing on the promotion of Guernsey as an international finance centre, whilst at the same time assisting in the development of the finance sector as a whole. This has evolved into a business planning process that enables GuernseyFinance to clearly demonstrate to the Department the value derived from its grant funding.

36. It is intrinsically difficult to measure the benefits that can be directly attributed to promotional activities and, on an ongoing basis success is measured through input objectives. That is to say, in agreeing the funding, the Department approves the GuernseyFinance Business Plan each year, which details the activities that will be carried out and which are aimed at achieving the overall agreed objectives. Performance measurement is carried out by a process of monitoring those activities in the Business Plan, which in turn is monitored for its success in delivering the overall strategic objectives of GuernseyFinance. It should be noted that the industry is also involved in developing the Business Plan and in monitoring its success through continuous consultation and an annual satisfaction survey. The Department intends to continue to review the strategic objectives and Business Plan for GuernseyFinance in agreeing its annual grant funding provision.

Grant to Guernsey Training Agency Ltd

(Details of the grant can be found in the NAO report, paragraphs 3.40–3.49)

37. The Department is currently working closely with the Guernsey Training Agency (GTA) and its joint funding partner - the Guernsey Financial Services Commission - in developing future objectives, business plan and performance measurement processes. These processes will be aimed at measuring the impact of the activities of the GTA.
38. Through the existing monitoring arrangements, the Department is in no doubt that the Agency is providing significant value to the future of the Island economy. However, the current review, along with changes to the way in which the GTA's business plan and financial model are constructed in the future, will enable the Department to demonstrate that funding is being directed to the areas of most need in terms of economic development potential and will make it easier to ensure that there are no hidden subsidies.
39. The Department intends, in agreeing its annual grant funding provision, to continue to measure the economic benefit derived by the GTA's activities against the existing and developing monitoring arrangements.

Support for Events and Activities

(Details of this support can be found in the NAO report, paragraphs 4.2–4.8)

40. The structure of support for events and activities was reviewed in 2005 and the Department, along with the Culture and Leisure Department, intends to allow that structure to "settle in" before any further review occurs. Having said that, the Events Group, guided by a ministerial steering group, is currently working with the special interest sub-groups to review their objectives. These groups bring together industry specialists, as well as States Members and are aimed at ensuring that the best is made of private/public partnerships in funding future events.

41. These reviews will inform the future plans for each of the special interest groups and will include evaluation of the benefits that are delivered from the funding of events. In partnership with the Culture and Leisure Department, future funding will be decided on the basis of the delivery of the objectives determined for each of the special interest groups.

Airline Concessions

(Details of the concessions can be found in the NAO report, paragraphs 5.2–5.7)

42. In partnership with the Public Services Department - under the umbrella of the External Transport Group - the Department has undertaken further consultation and analysis of current and possible future trends on air routes and passenger movements. This has included analysis of the implications of the “fluid pricing” models which have been adopted by the Island’s main carriers and how this links to travel patterns, particularly the increasing proportion of local residents within total air passenger numbers (66% in 2005).
43. The Department, through the External Transport Group, is developing a range of measures, including a Marketing Support Scheme, designed to increase the robustness of air services and to be aligned with the visitor economy strategy. Some of these measures may be implemented within the Department’s existing authority and resources but the Department intends to bring a comprehensive review to the States before the end of the year. Until that time, the existing route development measures will remain in place.

Recommendations

The Commerce and Employment Department recommends the States:

- i) to note the Commerce and Employment Department’s intention to apply the principles detailed in paragraphs 10 and 11 to all existing and future incentive schemes;
- ii) to agree that the policy basis for future schemes be agreed with the Policy Council and that the funding of such schemes be agreed with the Treasury and Resources Department as part of the budget process; and
- iii) to approve the cessation of the Advisory Support Scheme, the Horticultural Interest Subsidy Scheme and the Market Development Scheme as described in paragraphs 17-20, 21-23 and 24-26 respectively.

Yours faithfully

S Falla
Minister

(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

XVIII.- Whether, after consideration of the Report dated 20th July, 2006, of the Commerce and Employment Department, they are of the opinion:-

1. To note the Commerce and Employment Department's intention to apply the principles detailed in paragraphs 10 and 11 of that Report to all existing and future incentive schemes.
2. That the policy basis for future schemes be agreed with the Policy Council and that the funding of such schemes be agreed with the Treasury and Resources Department as part of the budget process.
3. To approve the cessation of the Advisory Support Scheme, the Horticultural Interest Subsidy Scheme and the Market Development Scheme as described in paragraphs 17-20, 21-23 and 24-26 respectively of that Report.

HOUSE COMMITTEE

CODE OF CONDUCT FOR MEMBERS OF THE STATES OF DELIBERATION

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

28th July 2006

Dear Sir

Executive Summary

This report proposes the adoption of a Code of Conduct for Members of the States of Deliberation. The purpose of the Code is to assist Members of the States in the discharge of their obligations to the States and the public. The Code also makes provision for disciplinary proceedings to be instituted against Members who breach the Code or who abuse parliamentary privilege

Report

Code of Conduct

On the 26th May 2005 the States resolved that legislation be enacted to enable the States, by resolution, to introduce a Code of Conduct for Members of the States of Deliberation. The projet de loi entitled the Reform (Guernsey) (Amendment) Law, 2006 was approved by the States on the 28th June 2006 for submission to Her Majesty in Council. The proposed Code of Conduct, if approved by the States, will come into force on the day following the registration in the Royal Court of the aforesaid Law.

1. Paragraph 1 sets out the purpose of the Code which is to assist elected Members of the States in the discharge of their obligations to the States, their constituents and the public. All Members are required to comply with the provisions of the Code.
2. Paragraphs 2 to 5 refer to the oath of office and oath of allegiance taken by all Members. It reminds Members of their duty to act in the public interest and to respect the rule of law and the administration of justice. Members are, of course, entirely free to call for changes in the law; but members of the public are entitled to be confident that they will be dealt with fairly and in accordance with the law as it is at the time.

3. Paragraph 6 states the general principles of conduct for holders of public office, i.e: selflessness; integrity; objectivity; accountability; openness; honesty and leadership. These principles are based on the Seven Principles of Public Life set out in the 1995 report of the United Kingdom Committee on Standards in Public Life chaired by the Rt. Hon. The Lord Nolan. These principles have become widely accepted as the basic principles applicable to the holders of public office.
4. Paragraph 7 requires Members to base their conduct on a consideration of the public interest and, when a conflict arises between the public and personal interest, it must be resolved in favour of the public interest.
5. Paragraphs 8 and 9 address the need for Members to conduct themselves in a manner which maintains and strengthens the public's trust and confidence in, and preserves the integrity of, the States. They must treat each other and the public with courtesy and without malice.
6. Paragraph 10 requires Members to uphold the political impartiality of the Civil Service and to give fair consideration to informed and impartial advice from Civil Servants.
7. Paragraphs 11 to 13 reminds Members that the acceptance of bribes is contrary to law and goes on to state that whilst the acceptance of hospitality may be acceptable in appropriate circumstances as a means of effecting States' business, Members shall not accept gifts, hospitality or services that might appear to place the recipient under any form of obligation.
8. Paragraph 14 prohibits the use of States assets or facilities for private purposes except where such facilities are generally available to all Members.
9. Paragraphs 15 and 16 refer to the registration and declaration of Members' interests and draws attention to the need for Members to be open and frank with the Presiding Officer, Law Officers and other Members and officials.
10. Paragraph 17 prohibits the acceptance of payments or gifts from third parties in respect of any proceedings of the States.
11. Paragraphs 18 and 19 prohibit the improper use of confidential information received in the course of States business and requires Members to have regard to data protection, human rights and other legislation when dealing with confidential information.
12. Paragraphs 20 to 25 make general provision for the constitution of a States Members' Conduct Panel.
13. Paragraphs 26-34 set out procedures for dealing with complaints alleging that the conduct of a Member is in breach of the Code of Conduct. If the Panel Chairman is satisfied that there is prima facie evidence to support the complaint

the matter is referred to an Investigation Panel. If that Panel finds that the complaint has been substantiated it may deal with minor breaches by cautioning the Member concerned. In the event that the Panel considers the Member concerned should be reprimanded, suspended or expelled the matter would be referred to the States with appropriate recommendations. Should it be suspected that a criminal offence has been committed the proceedings will be suspended until police investigations have been concluded.

14. Paragraphs 35 to 37 refers to the absolute privilege which enables Members to air any matter regardless of the power, wealth or status of those criticised. The counter-balance to absolute privilege is responsibility.
15. Paragraphs 38 to 45 set out procedures for dealing with complaints alleging that a Member has abused privilege. As with breaches of the Code of Conduct, where a complaint has been substantiated the penalties of reprimand, suspension and expulsion are reserved to the States.
16. Paragraphs 46 to 49 detail the practical effects of the imposition of the penalty of suspension.
17. Paragraph 50 applies the Code of Conduct, where the context so permits, to Non-States Members of States departments and committees.
18. Paragraphs 51 and 52 define the meaning of certain terms use in the Code.
19. Paragraph 53 provides that the Code shall come into force on the day following the registration of the Reform (Amendment) (Guernsey) Law, 2006.
20. Schedule 1 sets out the detailed provisions regarding gifts, benefits and hospitality. It provides that every Member shall make an annual declaration of gifts, benefits and hospitality received in the previous 12 months. Such declarations will be available for public inspection.

Payments to members of the States Members' Conduct Panel

Paragraph 20 of the Code provides for the establishment of a States Members' Conduct Panel. In terms of remuneration the Committee believes that members of the Panel should be remunerated in the same way and to the same extent as non-States members of States departments and committees, that is an allowance for each half-day, currently £48.53. The House Committee therefore recommends that paragraph 9 of the States Resolution of 28th January, 2004 on article IX of Billet d'État No 1 of 2004 be extended to include members of the States Members' Conduct Panel.

Consultation

The Presiding Officer and H. M. Greffier have advised the Committee on matters relating to the functioning of the States as required by Rule 14(5) of the Constitution

and Operation of States Departments and Committees. The Law Officers have also been consulted.

Recommendations

The Committee recommends the States to resolve:

- (1) that the Code of Conduct for Members of the States of Deliberation as set out in the brochure to the Billet d'État in which this report is published be adopted, pursuant to Article 20F(1) of the Reform (Guernsey) Law, 1948, as amended;
- (2) that paragraph 9 of the States Resolution of 28th January, 2004 on article IX of Billet d'État No 1 of 2004 be extended to include members of the States Members' Conduct Panel.

Yours faithfully

D P Le Cheminant
Chairman

(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:-

XIX.- Whether, after consideration of the Report dated 28th July, 2006, of the House Committee, they ate of the opinion:-

1. To adopt the Code of Conduct for Members of the States of Deliberation as set out in the brochure to Billet d'État No XVI of 2006, pursuant to Article 20F (1) of the Reform (Guernsey) Law, 1948, as amended.
2. To extend paragraph 9 of the States Resolution of 28th January, 2004 on Article IX of Billet d'État No I of 2004 to include members of the States Members' Conduct Panel.

HOUSE COMMITTEE

AMENDMENTS TO THE RULES OF PROCEDURE OF THE STATES OF DELIBERATION AND RULES RELATING TO THE CONSTITUTION AND OPERATION OF STATES DEPARTMENTS AND COMMITTEES

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

28th July 2006

Dear Sir

Executive Summary

This report proposes amendments to the Rules of Procedure of the States of Deliberation relating to the publication on the States website of the Register of Members' Interests and the electronic distribution to Members of answers given to written questions. The report also proposes an amendment to the Rules relating to the Constitution and Operation of States Departments and Committees regarding the constitution of the Emergency Powers Authority.

Report

Rules of Procedure of the States of Deliberation

Rule 23 - Register of Members' Interests.

1. Rule 23 provides that H. M. Greffier shall maintain a Register of Members' Interests in which he enters all declarations of financial interests lodged with him by Members of the States. The Register is open for public inspection during the normal Greffe opening hours. Members are required to lodge a declaration within one month of the commencement of the term of office and are also required to notify any material change within one month of the change taking place. Where a financial interest has ceased the Member may request H. M. Greffier to delete the entry. Members are not required to declare the value of the interest. Interests have to be lodged in the form set out in Schedule 1 to the Rules.
2. The House Committee has received representations from 18 Members of the States requesting that consideration be given to the publication of the Register of Members' Interests on the States website. They submitted that to do so would

aid openness and transparency as the Register would be more easily accessible by the general public. Interestingly, a similar suggestion had been made by the Policy Council in 2004 although it was not pursued at that time for practical reasons.

3. The House Committee, with one Member dissenting, concurs with the representations made both by the Policy Council and the 18 individual States Members that there is merit in making the Register available on the States website. However, the Committee believes that the procedures set out in the Rules need to be revised to enable the implementation of the new facility without placing an additional burden on Greffe resources.
4. All States Members have been given the opportunity having a computer and an e-mail address provided for them at States' expense. That being so the Committee believes it not unreasonable that they should be prepared to use those facilities for the efficient discharge of States business. The Committee is advised that currently 39 of the 47 Members of the States are listed on the Council's e-mail distribution list. It is further understood that some of the remaining eight States Members do, in fact, have e-mail but have not submitted their e-mail addresses for inclusion on the distribution list.
5. The Committee therefore proposes that:
 - Members should be required to make declarations in electronic format which would then be placed on the website without the need for reformatting by Greffe staff. An electronic form would be sent to all States Members. The Committee is alert to the needs of disabled persons and therefore intends to provide help for Members with impaired eyesight or other disability. Assistance in completing an electronic form would be provided at Sir Charles Frossard House for such Members and for those who do not have a computer.
 - Members would be required to make a new declaration when a change in financial interests takes place. This should not be unduly onerous for Members as it will be possible to store the form electronically on their own computers. Whilst technically it will be a "new" declaration in practice Members will only amend that part of the form which needs changing. H. M. Greffier, however, will simply substitute the new declaration for that previously lodged.
 - Only the current declaration will be published on the website. However, historical declarations would continue to be available for inspection at the Greffe.
 - All Members would be required to make a new declaration after each General Election, whether or not they served in the previous term. The Rules already require this but some Members have interpreted the Rule as meaning that a declaration is required only when first elected and that a new

declaration need not be made (unless interests have changed) when subsequently elected.

- Publication on the website shall be in addition to the Register available for inspection at the Greffe.
 - Members' interests shall be published on the website from 1st January, 2007. To that end all Members will be required to make a fresh declaration in electronic format during the month of December, 2006.
6. To implement the proposals set out in the previous paragraph, the following change to Rule 23 is proposed:
- at the end of paragraph (2) add: "Current entries in the Register of Members' Interests shall also be published on the States website.";
 - delete paragraphs (3), (4) and (5) and substitute therefor:

“(3) All Members shall, during the month of December, 2006 and subsequently within one month of being elected or re-elected as a Member, make and lodge with the Greffier a declaration of their financial interests.”;

“(4) All Members shall make and lodge with the Greffier new declarations of their financial interests within one month of any material change to their financial interests or the acquisition of a new financial interest.”;
 - renumber paragraphs (6) and (7) as (5) and (6) respectively;
 - before the full-stop at the end of the paragraph currently numbered (7) add: “and shall be lodged with the Greffier in electronic format”.

Rule 6 – Questions for written reply

7. Rule 6 provides, inter alia, that a copy of every question and answer shall be available for public inspection at the Greffe during normal opening hours. The Presiding Officer is required to make a copy of each question and answer available to every Member at the meeting of the States immediately following the date of the answer.
8. This can mean, in the extreme, (i.e. during the summer recess) that Members have to wait for up to nine weeks to see a reply to a written question. As stated in paragraph 4 of this Report all Members have, or have the opportunity of having, e-mail facilities. That being the case the Committee recommends that an answer to a written question be sent electronically to each Member immediately after the reply has been lodged with H. M. Greffier. However, again as stated in paragraph 4, there may, from time to time, be some Members

who cannot or do not use e-mail and alternative provision is proposed for such cases.

9. The following changes to Rule 6 are therefore proposed:

- in paragraph (2) after the words “furnish a copy of the reply” add “in electronic format” and after the words “Presiding Officer” add “and the Greffier”;
- in paragraph (4) delete all the words from “to be made available” and substitute therefor: “to be sent as soon as reasonably practicable in electronic format to every Member who has furnished the Greffier with an e-mail address or, when no such address has been furnished, by such other means as shall be determined by the Greffier.”.

Rules for the Constitution and Operation of States Departments and Committees

Rule 17(1) – the constitution of the Emergency Powers Authority

10. The constitution of the Emergency Powers Authority is presently:

- A Chairman who shall be the Chief Minister
(in the Chief Minister’s absence the Deputy Chief Minister, in the absence of both, the Senior Panel Member or Minister of the Home Department if he is senior to any Panel Member)
- The Minister of the Home Department
- One other member of the Policy Council chosen by the Chief Minister having regard to the nature of the emergency drawn from a Panel of five Ministers appointed by the Policy Council
(in the Chief Minister’s absence the Member shall be chosen by the Deputy Chief Minister or, in the absence of both, the Senior Panel Member or Minister of the Home Department if he is senior to any Panel Member).

11. Thus the intended normal membership of the Council is three: the Chief Minister, the Home Department Minister and one other Minister. There is provision for an alternate to the Chief Minister in the event of his absence but there is no provision for an alternate to the Home Department Minister should he be unavailable. In such circumstances the Emergency Powers Authority would have to sit with just two persons.

12. In view of the potentially far-reaching decisions which the Authority may be required to take, this is not a satisfactory position. It is proposed that another Minister should take the place of the Home Department Minister in such circumstances. The present wording is rather confusing. The House Committee

has therefore attempted to simplify it and incorporate provision for an alternate to the Home Department Minister.

13. The following change to Rule 17 is proposed: delete paragraph (1) and substitute therefor:

“A Chairman who shall be the Chief Minister

The Minister of the Home Department (or in the absence of the said Minister another Minister chosen by the Chief Minister)

One other member of the Policy Council chosen by the Chief Minister having regard to the nature of the emergency, drawn from a Panel of five Ministers appointed in that regard by the Policy Council

(In the foregoing reference to “Chief Minister” includes, in the Chief Minister’s absence, the Deputy Chief Minister and, in the absence of both, the Senior Panel Member or Minister of the Home Department, if he is senior to any Panel Member.)”.

Consultation

14. The Presiding Officer and H. M. Greffier have advised the Committee on matters which relate to the Rules of Procedure of the States of Deliberation as required by Rule 14(5) of the Constitution and Operation of States Departments and Committees. The Law Officers have also been consulted.

Recommendations

15. The House Committee recommends the States to resolve:
 1. that the Rules of Procedure of the States of Deliberation shall be amended with immediate effect as follows:
 - (i) in Rule 23:
 - (a) at the end of paragraph (2) add: “Current entries in the Register of Members’ Interests shall also be published on the States website.”;
 - (b) delete paragraphs (3), (4) and (5) and substitute therefor:

“(3) All Members shall, during the month of December, 2006 and subsequently within one month of being elected or re-elected as a Member, make and lodge with the Greffier a declaration of their financial interests.”;

“(4) All Members shall make and lodge with the Greffier new declarations of their financial interests

within one month of any material change to their financial interests or the acquisition of a new financial interest.”;

- (c) renumber paragraphs (6) and (7) as (5) and (6) respectively;
- (d) before the full-stop at the end of the paragraph currently numbered (7) add: “and shall be lodged with the Greffier in electronic format”;

(ii) in Rule 6:

- (a) in paragraph (2) after the words “furnish a copy of the reply” add “in electronic format” and after the words “Presiding Officer” add “and the Greffier”;
- (b) in paragraph (4) delete all the words from “to be made available” and substitute therefor: “to be sent as soon as reasonably practicable in electronic format to every Member who has furnished the Greffier with an e-mail address or, when no such address has been furnished, by such other means as shall be determined by the Greffier.”;

2. that the Rules relating to the Constitution and Operation of States Departments and Committees shall be amended with immediate effect, as follows:

delete Rule 17(1) and substitute therefor:

“A Chairman who shall be the Chief Minister

The Minister of the Home Department (or in the absence of the said Minister another Minister chosen by the Chief Minister)

One other member of the Policy Council chosen by the Chief Minister having regard to the nature of the emergency, drawn from a Panel of five Ministers appointed in that regard by the Policy Council

(In the foregoing reference to “Chief Minister” includes, in the Chief Minister’s absence, the Deputy Chief Minister and, in the absence of both, the Senior Panel Member or Minister of the Home Department, if he is senior to any Panel Member.)”.

Yours faithfully

D P Le Cheminant
Chairman

(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:-

XX.- Whether, after consideration of the Report dated 28th July, 2006, of the house Committee, they are of the opinion:-

1. To amend the Rules of Procedure of the States of Deliberation with immediate effect as follows:

- (1) in Rule 23:

- (a) at the end of paragraph (2) add: "Current entries in the Register of Members' Interests shall also be published on the States website.";

- (b) delete paragraphs (3), (4) and (5) and substitute therefor:

"(3) All Members shall, during the month of December, 2006 and subsequently within one month of being elected or re-elected as a Member, make and lodge with the Greffier a declaration of their financial interests.";

"(4) All Members shall make and lodge with the Greffier new declarations of their financial interests within one month of any material change to their financial interests or the acquisition of a new financial interest.";

- (c) renumber paragraphs (6) and (7) as (5) and (6) respectively;
- (d) before the full-stop at the end of the paragraph currently numbered (7) add: "and shall be lodged with the Greffier in electronic format";

- (2) in Rule 6:

- (a) in paragraph (2) after the words "furnish a copy of the reply" add "in electronic format" and after the words "Presiding Officer" add "and the Greffier";

- (b) in paragraph (4) delete all the words from "to be made available" and substitute therefor: "to be sent as soon as reasonably practicable in electronic format to every Member who has furnished the Greffier with an e-mail address or, when no such address has been furnished, by such other means as shall be determined by the Greffier.";

2. To amend the Rules relating to the Constitution and Operation of States Departments and Committees with immediate effect, as follows:

delete Rule 17(1) and substitute therefor:

“A Chairman who shall be the Chief Minister

The Minister of the Home Department (or in the absence of the said Minister another Minister chosen by the Chief Minister)

One other member of the Policy Council chosen by the Chief Minister having regard to the nature of the emergency, drawn from a Panel of five Ministers appointed in that regard by the Policy Council

(In the foregoing reference to “Chief Minister” includes, in the Chief Minister’s absence, the Deputy Chief Minister and, in the absence of both, the Senior Panel Member or Minister of the Home Department, if he is senior to any Panel Member.)”.

HOUSE COMMITTEE

SIMULTANEOUS ELECTRONIC VOTING IN THE STATES OF DELIBERATION

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

28th July 2006

Dear Sir

Executive Summary

This report outlines the results of the House Committee's investigations into simultaneous electronic voting. Whilst the Committee is of the view that electronic voting would provide a number of positive benefits over the current systems of voting, the Committee has concluded that the level of expenditure required to implement such a system cannot be justified in the current financial climate.

Background

1. On 17th May 2002, after consideration of the Joint Report, dated 11th April 2002, of the States Advisory and Finance Committee and the States Procedures and Constitution Committee regarding the Machinery of Government in Guernsey (Billet d'État VII 2002), the States Resolved, *inter alia*:

"To direct the States Procedures and Constitution Committee to report to the States and submit appropriate proposals...for...voting in the States of Deliberation, to include provision for simultaneous electronic voting."

2. Prior to approval by the States in April 2005 of essential maintenance and refurbishment works at the Royal Court House, the following practical limitations precluded the serious consideration of the installation of a simultaneous electronic voting (herein referred to as 'electronic voting') system:
 - The desk space available to States Members and Advocates in the well of the Royal Courtroom was considered inadequate. The provision of a voting unit would diminish this already limited space;
 - The existing audio system could not accommodate any form of electronic voting, therefore a separate 'stand alone' system would be required, the

installation of which (if it were not wireless) could be detrimental to the audio system;

- Gaining access to the floor space for the installation of wiring would be extremely disruptive to the operations and fabric of the Royal Courtroom;
 - The known presence of asbestos within the building meant that any work would require an expensive Risk Assessment, Method Statement of Proposed Works and the use of specialist contractors.
3. The essential maintenance works, now underway in the Royal Court House, have provided the opportunity to equip and adapt the Royal Courtroom for the 21st century. The maintenance works involved, *inter alia*, the removal of asbestos from the building and the removal of the ceiling situated below the Royal Courtroom. Following advice from the Royal Courts audio contractor that it was unlikely that the aging (over 15 years old) audio system would remain functional after it had been disturbed during the removal of the asbestos, and following consultation with the Presiding Officer, Jurats, H.M. Greffier, the Law Officers and States Property Services, it was agreed that the audio system should be replaced whilst the floor of the Royal Courtroom was accessible, thus allowing the installation of the necessary cabling.
 4. In tandem, the House Committee decided to investigate the possibility of adapting the layout of the Royal Courtroom to suit better the current needs of the States of Deliberation and the Court. The Royal Courtroom was last refurbished over 50 years ago and the current layout has certain inadequacies in the modern world both as a debating chamber and court room. At the request of the House Committee, with the consent of the Royal Court and facilitated by States Property Services, refurbishment proposals were developed by the project architect in close liaison with the Presiding Officer, Jurats, H. M. Greffier and the Law Officers. The proposals take advantage of the reduction in the number of People's Deputies to reduce the number of seats in the well of the Royal Courtroom. This provided the opportunity to reconfigure the layout of the seating in order to create wider desks, more legroom, improved sightlines for Members sat adjacent to the bench and improved access for people with disabilities.
 5. In March 2006, the Policy Council endorsed the House Committee's proposals and the Treasury and Resources Department agreed that the works, estimated to cost £70,000, would be funded from the unexpended contingency remaining at the end of the new extension contract. The resulting wider desks will provide sufficient space for individual voting keypads, if electronic voting is introduced.
 6. Following investigation of a number of audio systems by the Courts' audio contractor, the House Committee agreed to instruct H.M. Greffier to include within the contract specification for 'Operational Systems and Equipment Items for the Royal Court House', the requirement for a 'Digital Signal Processing' (DSP) audio system, similar to that installed in the new Criminal Courts 1 and 2,

tailored to handle both Court and States proceedings. DSP has many advantages, as listed in appendix 1, but the House Committee decided upon this option principally because it has the capacity to add wireless electronic voting facilities as an integral element either at the time of installation or afterwards. The immediate benefit of this is compatibility of components, units, software and hardware.

7. To avoid expensive delays to the Maintenance Contract, early decisions had to be taken regarding the services in the floor. It was, therefore, not possible for the House Committee to bring forward proposals to the States regarding electronic voting before a decision had to be taken regarding what cabling to install during the 'first fix' phase of the maintenance programme. Therefore, the House Committee requested the Royal Courts Project Board to arrange for the installation of the necessary cabling to allow for the installation of the audio system *and*, should the States so decide at a later date, electronic voting. This involved minimal additional cost (which was absorbed within the existing budget) but provided future flexibility.

Voting in the States of Deliberation

8. At present, voting in the States of Deliberation is conducted by Members simultaneously calling out 'pour' or 'contre' (known as a 'vive voix') in response to propositions, unless a Member requests a roll-call vote (known as an 'appel nominal') whereby Members call out their votes in turn in response to a roll-call conducted by H.M. Greffier.
9. Electronic voting allows Members to vote simultaneously using a delegate handset. Votes are cast by activating one of three buttons: 'pour', 'contre' or 'abstention'. The results of votes are recorded and can be visually displayed immediately on a computer/plasma screen, printed or saved. Such a system was introduced by the States of Jersey in 2004 as a replacement for the 'appel nominal'. The States of Jersey opted at this time to retain the 'standing vote' (Jersey's equivalent to the 'vive voix') as it was considered more suited and less time consuming for non-controversial, routine matters.
10. Given the technical nature of this matter, the House Committee sought professional advice from the Courts' audio contractor with a view to obtaining a budget estimate for the provision of a suitable electronic voting system. A number of systems were investigated based on the following criteria (not listed in order of priority):
 - Reliability and serviceability
 - Fail-proof security
 - Ability to be integrated with the new audio system
 - Cost-effectiveness

- Ease of use
 - Ease of installation with minimum disruption to the furniture
 - Congruous to the Royal Courtroom's purposes and décor
 - Efficient use of desk space, allowing maximum space to be retained for Members'/Advocates' papers.
11. These investigations revealed that whilst there are a number of electronic voting systems on the market, relatively few cater specifically for parliamentary voting. Many of the 'cheaper' systems have been rejected as they are engineered for commercial use such as TV (ask the audience) shows or educational (multi question) polling and these do not have the necessary degree of security, reliability and integrity of specialist parliamentary systems.
 12. The House Committee has been provided with a budget estimate of £30,000 for the procurement and installation of a wireless electronic voting system specifically designed, tried and tested for parliamentary voting and capable of being fully integrated with the new audio system. The main advantages of a wireless system is that its installation does not entail any rewiring under the benches or any extra upheaval to the décor of the room and the handsets can be moved or stored until required, thus minimising obtrusive clutter.
 13. The voting handsets of the system identified are small (similar to a small TV remote controller) with just three buttons. An optional chip-card facility is available which would provide an extra level of security. Each Member would be provided with a personal chip-card which would make them eligible to vote when inserted in any handset. Without the chip-card inserted, the system would not accept any vote from an unauthorised wireless unit. With the chip-card inserted, it would log the Member's vote personally to that Member, irrespective of the voting handset into which (s)he inserted the card. The system's software allows full analysis and display of results on screen(s) or printed out. The system is proven to be reliable and secure.
 14. A further security measure provided is a facility for H. M. Greffier to exclude voting by Members not present at the roll call and who have not subsequently been *relevé(e)*. In the event that an electronic voting system is introduced the House Committee will bring forward proposals for an amendment to the Rules of Procedure the effect of which will be to prevent Members from removing voting handsets from the States Chamber.
 15. The budget cost of £30,000 includes:
 - 50 delegate handsets
 - Central console and power supply
 - All necessary receivers, aerials, interfaces and software

- Delivery and installation/programming
 - Optional (recommended) chip card programmer and stock of chip cards
 - 50 keypad covers which leave only three buttons showing for parliamentary voting
14. The budget cost excludes video projection or plasma screens for displaying results and the actual computer required for operation. Several manufacturers / agents have offered video/plasma display and distribution options ranging from £7,300 to £12,000 for two 42" screens and circuitry, mounting hardware, etc. The installation of display screens within the Royal Courtroom would, of course, be subject to formal planning consent from the Environment Department.

Arguments For and Against the Adoption of Electronic Voting

15. The following main advantages of electronic voting over the current systems of voting have been identified:
- (a) It would remove any possibility of the perceived effect of one Member's vote influencing another's.
 - (b) It would ensure total accuracy: votes could not be questioned.
 - (c) It would create a more 'open' system of government, as a record of individual Members' voting direction would be retained and available upon request by Members of the States, the media, the public, States Departments and Committees.
 - (d) The system would potentially save a small amount of time per vote compared to the 'appel nominal'. Where there are a large number of votes during one meeting, the time savings would clearly accrue.
16. The following main disadvantages of electronic voting over the current systems of voting have been identified:
- (a) The media and members of the public following the business of the Assembly on the radio would not be able to hear the direction in which individual Members had voted.
 - (b) Electronic voting systems offering the necessary degree of security and reliability are relatively expensive, particularly when compared to the current systems which do not cost anything to operate. A budget estimate of £30,000 has been provided for the procurement and installation of a suitable wireless electronic voting system. This price excludes video projection or plasma screens for displaying results, which would cost an additional £7,300 – £12,000.
17. Disadvantage (a) could be addressed by giving Members of the States the option to request H.M. Greffier to announce the record of individual voting following

the casting of votes. However, this would cancel out the time savings achieved by using the electronic voting system and, therefore, it is envisaged that this would only take place at the formal request of an elected Member. Alternatively, the results of the vote could be displayed on a screen in the Royal Courtroom and also in the media room. Printed versions of the record could also be available to Members of the States, the media and the public upon request or via printers located in the Members' and media rooms.

Voting by Vive Voix and Appel Nominal

18. The House Committee, by a majority, is of the opinion that if the States approve the introduction of electronic voting, use of the 'vive voix' should be retained, as it is more suited and less time-consuming for non-controversial, routine matters and to preserve a traditional practice. However, the electronic voting system would, of course, be available for use if any Member called for a recorded vote before the Presiding Officer ruled that the matter had been carried or lost, or immediately after such a ruling, just as, at the present time, any member can call for an 'appel nominal' under Rule 14(2) of the Rules of Procedure of the States of Deliberation. The House Committee favours the retention of voting by 'appel nominal' in the event of a breakdown in the electronic voting system. A majority of the Committee also wishes to retain 'appel nominal' voting in such exceptional circumstances as the States may from time to time decide.

Consultation

19. The House Committee has consulted with the Presiding Officer, H.M. Greffier and the Law Officers regarding this matter. All are in agreement that this is a political matter but have no objections to the introduction of electronic voting should the States so decide.

Financial and Manpower Implications

20. The House Committee does not have a budget, therefore, should the States approve the introduction of electronic voting, a capital allocation from the Treasury and Resources Department would be required. It is anticipated that a capital allocation of £50,000 will be sufficient to complete the project, broken down as follows:

£30,000	- Procurement and installation of electronic voting system
up to £12,000	- Video projection or plasma screens
<u>£ 8,000</u>	- 20% unforeseen costs and contingency
<u>£50,000</u>	

21. The ongoing maintenance costs of the system are understood to be minimal although there will be a need for minor expenditure on batteries for the delegate handsets, replacement chip cards and consumables such as paper and cartridges for computer printers.

22. The introduction of electronic voting would have no implications for the manpower resources of the States.

Recommendation

23. Whilst the House Committee is of the view that the introduction of electronic voting would provide a number of positive benefits over the current systems of voting, the Committee, by a majority, has concluded that the level of expenditure required to implement such a system cannot be justified in the current financial climate. The Committee therefore recommends the States to resolve that a system for simultaneous electronic voting be not introduced in the States of Deliberation at this time.

Yours faithfully

D P Le Cheminant
Chairman

APPENDIX 1**ADVANTAGES OF DIGITAL SIGNAL PROCESSING**

Digital Signal Processing (DSP) has the following main advantages in addition to those listed in paragraph 5:

- The DSP 'box' processes the sound digitally – All microphones are automatically activated or switched off; it adjusts the volume for a uniform level of output, irrespective of how loud or soft the person is speaking; it equalises the tones so the sound reinforcement is natural; it segregates the channels of microphones for the recording system, allowing the clerk/transcribers to tell which area of the Royal Courtroom the person is speaking from; it sums the signal to a mono broadcast feed for the media if so required; etc.
- Audio files can be almost instantly copied, which means that authorised persons can have copies of the day's proceedings or predetermined segments of within minutes of their conclusion, either on compact disk or e-mailed as a suitable file attachment.
- In the event of a Member querying what another has said, either immediately after or at any other time thereafter, that section of speech can be traced (from digital 'log notes') and replayed in the Royal Courtroom in real time, whilst the logging system continues to record as normal.

(NB The Policy Council, by a majority, agrees with the majority of the House Committee that electronic voting should not be introduced at this time.)

(NB The Treasury and Resources Department agrees with the majority of the House Committee that electronic voting should not be introduced at this time.)

The States are asked to decide:-

XXI.- Whether, after consideration of the Report dated 28th July, 2006, of the House Committee, they are of the opinion:-

That a system for simultaneous electronic voting NOT be introduced in the States of Deliberation at this time.

REQUÊTE

CIVIL PARTNERSHIPS

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

SHEWETH:

1. THAT, your petitioners believe that committed couples who are not in a position to marry should be able to choose to have their partnership formally recognised by the state and thereby gain similar rights, privileges and responsibilities as spouses.
2. THAT, in particular this should apply to homosexual couples because they are uniquely excluded from the institution of matrimony.
3. THAT, many countries, including the UK, have recognised the desirability of such a move and have introduced a range of legal arrangements to accommodate the wish of homosexuals to have their relationships formally recognised.
4. THAT, it is inevitable that over time people who are bound by such “civil partnerships” will move to Guernsey from the UK and elsewhere and the Island will have to decide how they should be treated under local law.
5. THAT, your petitioners believe that to deny them the rights and responsibilities that such a legal partnership brings, simply because they have moved to Guernsey, would be clearly wrong.
6. THAT, your petitioners believe that it would be equally wrong to recognise the civil partnerships of those who have entered into them elsewhere and yet deny the right to enter into such partnerships to the local population unless they leave the Island so to do.
7. THAT, given the above your petitioners believe that there is a pressing need for Guernsey to investigate both the introduction of civil partnerships locally and the way in which the Island should recognise similar legal partnerships, outside marriage, which have been entered into by its residents in other jurisdictions.
8. THAT, in the opinion of your petitioners such an investigation should cover all issues likely to be associated with, or arising out of, the concept of civil partnership including, by way of example only and not limitation -
 - (a) inheritance rights (including the right to be considered as next of kin),
 - (b) issues concerning children of civil partners (including parental responsibility and joint adoption rights),

- (c) the treatment of civil partners for taxation and other fiscal purposes,
- (d) the ownership of property by civil partners.

THESE PREMISES CONSIDERED, your petitioners humbly pray that the States may be pleased to resolve as follows:

To direct the Policy Council to initiate an investigation into the desirability of the enactment of legislation –

- (a) enabling people to enter into legally recognised and binding civil partnerships in Guernsey,
- (b) addressing all issues that might be associated with, or arise out of, the creation of such partnerships, and
- (c) enabling the recognition for the purposes of Guernsey law of similar civil partnership arrangements entered into under the laws of other jurisdictions.

AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY

This 30th day of June, 2006

P J Roffey

S J Maindonald

J M Tasker

J A Pritchard

S J Ogier

D W Staples

B L Brehaut

W J Morgan

(NB The Policy Council, by a majority, does not consider the investigation of civil partnerships to be a priority at this time and will therefore not support the prayer of the Requête.)

(NB The Treasury and Resources Department, by a majority, does not consider the investigation of civil partnerships to be a priority at this time and will therefore not support the prayer of the Requête.)

(NB In pursuance of Article 17 of the Rules of Procedure the views of the Departments and Committees consulted by the Policy Council, as appearing to have an interest in the subject matter of the Requête, are attached as follows:

Treasury and Resources Department

The Treasury and Resources Department advises that the effect of this requête would be to necessitate some changes to the Income Tax legislation but that the loss in tax receipts, if any, would be minimal.

Education Department

The Board discussed the requête at its meeting on 25th July, 2006 and was unanimously of the opinion that it wished to express no collective view on this matter. When it comes before the House, members wish to express their own individual views during the debate.

Health and Social Services Department

There are, currently, issues for Health and Social Services clinical areas when civil ‘partners’ request information on the condition of their partners as their relationship is not legally recognised from a confidentiality perspective and it would be helpful for this apparent anomaly to be formally corrected. The Health and Social Services Department would also be interested in how such proposals would affect children and young people. My Board would not object to further investigation being initiated into the desirability for legislation in relation to civil partnerships and the subsequent production of a States Report on this topic.

Housing Department

As the requête could have implications for the Housing Department I should like to make the following comments:

- The Tenancy Section of the Housing Department already recognises civil partnerships as set out in its Policies and Procedures;

- The Finance Section, which administers States Home Loans, only takes co-habitation into account for the purpose of financial assessment; the income of both individuals, irrespective of their gender composition would be taken into consideration when calculating the interest rate of that loan;
- The issuance of bonds on properties which have been purchased using a States Home Loan is not affected by the gender composition of joint loan-holders;
- There are, however, more complicated consequences with regard to the Housing Control Law. The Director of Housing Control has sought advice from the Law Officers and the understanding is that if civil partnerships become recognised in Guernsey it will inevitably have an impact on the way the Housing Control Law is administered. It is more than likely that the Law will have to be amended to ensure that persons in civil partnerships can gain residential qualifications in the same way as married persons.

Social Security Department

The content of the requête, so far as it relates to homosexual couples, does not cause significant problems from a social security perspective.

The gender equality reforms that came into effect from 1 January 2004 removed nearly all derived rights to social insurance benefits, based on marriage. Such derived rights as do remain are mainly on a transitional basis only, in relation to marriages that had taken place before 1 January 2004, and so can never be accessible to civil partners.

There are just two areas of derived entitlement that are ongoing, the first being bereavement benefits available to a surviving spouse, based on the insurance record of the deceased spouse, and the second being the inheritance of a spouse's pension if it is at a higher rate than the pension that the surviving spouse is otherwise receiving. With the appropriate legislative change, these benefits could be made available to civil partners without any significant administrative or financial impact on the Guernsey Insurance Fund.

There would be no detectable difference to the payment of family allowances as a result of the introduction of civil partnerships, but there could be implications for the definition of a family in relation to the effects of a breakdown of a civil partnership or the death of one partner and a claim for widowed parent's allowance. It is believed that a minor amendment to the Law may be required.

The Department is unclear as to the type of couples who are not in a position to marry, apart from homosexual couples, that the signatories to the requête have in

mind. When this is clarified, the social security implications may be more significant than those outlined above.

Public Sector Remuneration Committee

The Committee is responsible for the administration of public sector pension schemes and, after consultation and negotiations with elected representatives of scheme members, recommending appropriate changes to the provisions of the schemes.

At present the provisions of the schemes, which are broadly in line with UK public sector schemes, are based on the “traditional” family arrangements i.e. married couple with children. Thus there is provision of benefits for widows and widowers but with such benefits ceasing on re-marriage. There is no recognition of common law partnerships or same sex partnerships.

As you will be aware the Committee, in consultation with scheme members, is currently undertaking a review of public sector pensions in Guernsey. You will no doubt also be aware that all UK public sector schemes have recently been reviewed or are being reviewed.

I understand that as part of their reviews, UK schemes have been updated to reflect modern lifestyles and equality considerations. As a result dependants’ benefits will be available to heterosexual and same sex partners irrespective of whether or not they have entered into marriage or a civil partnership. Such benefits would be subject to a test of financial interdependency.

In the event of Guernsey public sector pension schemes continuing to be broadly comparable to those in the UK, issues concerning modern lifestyles and equality considerations would be addressed irrespective of whether the requête on civil partnerships is approved by the States.

Inheritance Law Review Committee

The Inheritance Law Review Committee believes that consideration of the introduction of civil partnerships would overlap with the future work which the Committee proposes to undertake, in particular consideration of testamentary freedom, outlined in section D of its Supplementary report which has been submitted for inclusion in the September Billet d’État.

The Committee therefore requests that it be consulted as part of any investigation undertaken into the introduction of civil partnerships.)

The States are asked to decide:-

XXII.- Whether, after consideration of the Requête, dated 30th June, 2006, signed by Deputy P J Rofey and seven other Members of the States, they are of the opinion:-

To direct the Policy Council to initiate an investigation into the desirability of the enactment of legislation –

- (a) enabling people to enter into legally recognised and binding civil partnerships in Guernsey;
- (b) addressing all issues that might be associated with, or arise out of, the creation of such partnerships; and
- (c) enabling the recognition for the purposes of Guernsey law of similar civil partnership arrangements entered into under the laws of other jurisdictions.

ORDINANCE LAID BEFORE THE STATES

**THE MACHINERY OF GOVERNMENT (TRANSFER OF FUNCTIONS)
(GUERNSEY) ORDINANCE, 2006**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2006, made by the Legislation Select Committee on the 14th August, 2006, is laid before the States.

STATUTORY INSTRUMENT LAID BEFORE THE STATES

THE HUMAN RIGHTS (AMENDMENT) ORDER, 2006

In pursuance of Section 16(1)(c) of the Human Rights (Bailiwick of Guernsey) Law, 2000, as amended, the Human Rights (Amendment) Order, 2006, made by the Policy Council on 5th June, 2006, by the Policy and Finance Committee of the States of Alderney on 22nd June, 2006 and by the General Purposes and Finance Committee of the Chief Pleas of Sark on 22nd June, 2006, is laid before the States.

EXPLANATORY NOTE

This Order is made following the ratification by the United Kingdom of the Thirteenth Protocol to the European Convention on Human Rights ("the Convention") on the 10th October, 2003. The Thirteenth Protocol abolishes the death penalty in all circumstances. It supersedes the Sixth Protocol to the Convention, which abolished the death penalty in most circumstances, but permitted States to make provision in their law for the death penalty in respect of acts committed in time of war or of imminent threat of war.

This Order amends the Human Rights (Bailiwick of Guernsey) Law, 2000 by substituting Article 1 of the Thirteenth Protocol for Articles 1 and 2 of the Sixth Protocol in Part III of Schedule 1 to that Law, which gives Articles 1 and 2 of the Sixth Protocol the status of "Convention rights" protected by the Law. Article 1 of the Thirteenth Protocol is in identical terms to Article 1 of the Sixth Protocol, but omits the exception allowing the death penalty in time of war previously contained in Article 2 of the Sixth Protocol.

This Order also amends section 1 of the Human Rights Law by substituting references to Article 1 of the Thirteenth Protocol for Articles 1 and 2 of the Sixth Protocol, and section 17 of the Law by omitting the definition of the Sixth Protocol and inserting a definition of the Thirteenth Protocol.

APPENDIX I

TREASURY AND RESOURCES DEPARTMENT

GUERNSEY ELECTRICITY LIMITED - SUBMISSION OF ANNUAL ACCOUNTS

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

11th July 2006

Dear Sir

Under Section 8 of the States Trading Companies (Bailiwick of Guernsey) Ordinance 2001, the year end accounts of Guernsey Electricity Limited are required to be published as an appendix to a Billet d'État.

I therefore submit the Report and Financial Statements of that company for the year ended 31 March 2006.

As explained in the Director's Report the retained profit for the financial year was £362,000 (2005: £490,000). Against a background of considerable uncertainty in the global energy markets, it is pleasing to be able to report that the company's performance is considerably better than originally budgeted and has enabled the company to pay a dividend to the States of £306,000 (2005: £281,000).

The company also continues to perform extremely well in terms of reliability of electricity supply.

I should be grateful if you would include this matter as an Appendix to the September 2006 Billet d'État.

Yours faithfully

L S Trott
Minister

Guernsey Electricity Limited

Report and financial statements

31 March 2006

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Profit and loss account	8
Statement of total recognised gains and losses	9
Balance sheet	10
Cash flow statement	11
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Directors, officers and professional advisers

Directors:	KA Gregson	(non-executive Chairman)
	I Watson	(managing)
	IJ Limond	(finance)
	SJ Morris	(engineering)
	KJ Guille	(non-executive)
	JR Shaw	(non-executive)
	RJ Tee	(non-executive)
	Advocate IH Beattie	(non-executive)

Secretary: SB Pattimore

Bankers: Barclays Bank Plc
PO Box 41
Le Marchant House
St Peter Port
Guernsey
GY1 3BE

Legal advisers: Ozannes
1 Le Marchant Street
St Peter Port
Guernsey
GY1 4HP

Auditors: KPMG Channel Islands Limited
Chartered Accountants
20 New Street
St. Peter Port
Guernsey
GY1 4AN

Registered office: PO Box 4
Electricity House
North Side
Vale
Guernsey
GY1 3AD

Company number 38692

Directors' report

The directors present their report and the audited financial statements for the year ended 31 March 2006. These comprise the profit and loss account, statement of total recognised gains and losses, balance sheet, cash flow statement and notes to the financial statements set out on pages 12 to 28.

Incorporation

Guernsey Electricity Limited was incorporated on 24 August 2001.

Principal activities

The principal activities of the company are the generation, importation and distribution of electricity and the sale of associated goods and services.

Financial performance

During the year ended 31 March 2006, turnover from electricity sales amounted to £26,631,000 (2005: £25,284,000) which represents an increase of 5.33% (2005: 3.36%). Tariffs to our customers increased by 5.5% from 1 January 2006. In addition to our unit growth our financial performance reflects excellent control of costs in a very difficult energy market, and generally higher contribution from all parts of the business.

The profit for the year before the dividend paid amounted to £668,000 (2005 restated: £771,000). The retained profit after dividend of £362,000 (2005 restated: £490,000) has been transferred to the profit and loss account.

Dividend

During the year a dividend of £306,000 was paid (2005: £281,000), being £0.0028 per share (2005: £0.0026).

Future prospects

The global energy market is giving major concerns to governments, customers and companies operating in the energy industry. As directors of Guernsey Electricity Limited we share these concerns. However, the significant increases in cost caused by the global market are a severe risk which the company faces and manages on a daily basis. Although the directors are making efforts to minimise the impact on customers it is somewhat inevitable that charges to customers will need to increase unless a further significant change occurs in the global energy market to reduce costs. A further tariff increase to our customers of 5% will come into effect from 1 April 2006.

Customers

The number of customers as at 31 March 2006 is 28,400 (2005: 28,255).

Directors' report - continued

Units

Importation through the cable link between Guernsey, Jersey and the European grid provided 78% (2005: 84%) of the island needs in the year ended 31 March 2006 and 22% (2005: 16%) was generated on the island, as shown by the units analysis below:

	2006	2005
Units imported MWh	276,813	286,488
Units generated MWh	<u>79,455</u>	<u>53,098</u>
Total units imported/generated MWh	<u>356,268</u>	<u>339,586</u>

Average price

The average price per kWh sold in the year ended 31 March 2006 was 8.02 pence (2005: 7.97 pence).

Reliability

The reliability of Guernsey Electricity's supply is measured by minutes lost per customer. Power failures can be caused by a failure of generation plant, a failure of the distribution network or a failure of the cable link. Customers lost no minutes due to generation activity (2005: Nil). However, 12.46 minutes were lost per customer in respect of distribution and the cable link (2005: 14.92 minutes).

Directors and their interests

The directors of the company who served during the year and to date are as detailed on page 1. The directors have no beneficial interests in the shares of the company.

Auditors

A resolution for the reappointment of KPMG Channel Islands Limited will be proposed at the forthcoming Annual General Meeting.

For and on behalf of the Board of Directors



KA Gregson

I Watson
Directors

23 June 2006

Corporate governance

Directors

In accordance with The States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001 as amended the non-executive directors are appointed by the States of Guernsey on the nomination of the States of Guernsey Advisory & Finance Committee, now the Department of Treasury & Resources. The first executive directors were appointed by the Advisory & Finance Committee after consultation with the non-executive directors. Further appointments of executive directors are made by the company's Board of Directors.

The company is controlled through the Board of Directors, which currently comprises five non-executive and three executive directors. As the Chairman is mainly responsible for the running of the Board, he has to ensure that all directors receive sufficient relevant information on financial, business and corporate issues prior to meetings. The Managing Director's responsibilities focus on running the business and implementing strategy. All directors are able to take independent professional advice in furtherance of their duties if necessary.

The Board monitors the exposure to key business risks and reviews the strategic direction. It also considers environmental and employee issues. The Board has established a number of standing sub-committees and each operates within defined terms of reference. The principal sub-committees are:

- Audit and Risk
- Land and Property
- Remuneration and Nominations

In addition senior management team meetings are held each fortnight.

Directors' remuneration

In accordance with The States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001 as amended the remuneration of the non-executive directors is determined by the Department of Treasury & Resources. The remuneration of the executive directors is determined by the company's Remuneration and Nominations Committee, which comprises three non-executive directors.

Corporate governance - continued

Relations with the shareholder

The company's issued share capital is wholly owned by the States of Guernsey. The States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001 as amended provided for the States of Guernsey Advisory & Finance Committee (now Department of Treasury & Resources) to undertake on behalf of the States the role of shareholder. In accordance therewith the share certificates for the whole issued share capital are held equally in the names of the current Minister and Deputy Minister of the Department of Treasury & Resources as nominees on behalf of the States of Guernsey. Provision is also in place for the States to give guidance to the Department of Treasury & Resources on the policies it wishes to be pursued in fulfilling this role. Each year the company submits its rolling 5 year plan to the Department of Treasury & Resources.

Financial reporting

The company has a comprehensive system for reporting the financial performance of the company and each of its business units. Management and the Board of Directors review these monthly. The financial statements for the accounting period ending on the accounting reference date of 31 March are reviewed and signed on behalf of the Board of Directors, and will be presented to the shareholder at the forthcoming annual general meeting.

Internal control

An ongoing process for identifying, evaluating and managing the significant risks faced by the company is in place. The monitoring of this process is one responsibility of the Audit & Risk Sub-Committee and a system of developing the way in which the company captures and assesses its risks has been initiated.

Compliance

All business units have well established compliance procedures.

IT systems

The company has established controls and procedures over the security of data held on IT systems and has in place comprehensive disaster recovery arrangements. These arrangements are tested regularly and reviewed by an independent consultant.

Internal audit

Internal audit has a continuing role in monitoring and reporting on business risks. The internal auditor reports directly to the Audit & Risk Sub-Committee on all such matters.

Risk management

The Board of Directors has overall responsibility for identifying, evaluating and managing major business risks facing the company. The Audit & Risk Sub-Committee provides assistance to the Board in these matters.

Statement of directors' responsibilities

The directors are responsible for preparing the financial statements in accordance with applicable law and UK Accounting Standards. Company law requires the directors to prepare financial statements for each financial year which give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period. In preparing those financial statements the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable accounting standards have been followed subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the company will continue in business.

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

¹⁷⁷⁰ **Independent auditors' report to the members of Guernsey Electricity Limited**

We have audited the financial statements (the "financial statements") of Guernsey Electricity Limited for the year ended 31 March 2006 which comprise the Profit and Loss Account, the Statement of Total Recognised Gains and Losses, the Balance Sheet, the Cash Flow Statement and the related notes. These financial statements have been prepared under the accounting policies set out therein.

This report is made solely to the company's members, as a body, in accordance with section 64 of The Companies (Guernsey) Law, 1994. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of directors and auditors

The directors are responsible for preparing the Directors' Report and the financial statements in accordance with applicable Guernsey law and UK accounting standards as set out in the Statement of Directors' Responsibilities on page 6.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with The Companies (Guernsey) Law, 1994. We also report to you if, in our opinion, the company has not kept proper accounting records, or if we have not received all the information and explanations we require for our audit.

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

We read the other information accompanying the financial statements and consider whether it is consistent with those statements. We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the financial statements.

Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In our opinion the financial statements:

- give a true and fair view, in accordance with UK Accounting Standards, of the state of the company's affairs as at 31 March 2006 and of its profit for the year then ended; and
- have been properly prepared in accordance with The Companies (Guernsey) Law, 1994.

KPMG Channel Islands Limited

Chartered Accountants
Guernsey

27 June 2006

Guernsey Electricity Limited

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Profit and loss account for the year ended 31 March 2006

		Year ended 31 March 2006	Year ended 31 March 2005 (restated)
	Note	£'000	£'000
Turnover	2	29,369	27,813
Cost of sales		<u>20,887</u>	<u>18,330</u>
Gross profit		8,482	9,483
Net operating expenses		<u>9,192</u>	<u>9,439</u>
Operating (loss)/profit	4	(710)	44
Loss on disposal of assets		<u>85</u>	<u>9</u>
(Loss)/profit on ordinary activities before interest and exceptional item		(795)	35
Interest receivable	5	1,054	922
Interest payable	5	(13)	(14)
Other finance income	25	226	3
Exceptional item	6	<u>287</u>	<u>-</u>
Profit on ordinary activities before taxation		759	946
Taxation	7	<u>91</u>	<u>175</u>
Profit for the financial year after taxation		668	771
Dividend	8	<u>306</u>	<u>281</u>
Profit for the financial year	21	<u>362</u>	<u>490</u>

All activities derive from continuing operations.

The notes on pages 12 to 28 form an integral part of these financial statements.

Statement of total recognised gains and losses
for the year ended 31 March 2006

		Year ended 31 March 2006	Year ended 31 March 2005 (restated)
	<i>Note</i>	£'000	£'000
Profit for the year		362	490
Actuarial gain recognised in the pension scheme	25	1,402	2,521
Movement on deferred tax relating to pension deficit	16	(280)	(504)
		<hr/>	<hr/>
Total recognised gain for the year	21	<u>1,484</u>	<u>2,507</u>

The notes on pages 12 to 28 form an integral part of these financial statements.

Guernsey Electricity Limited

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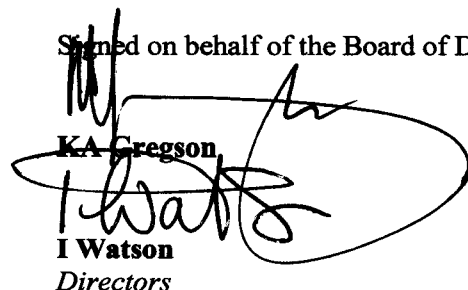
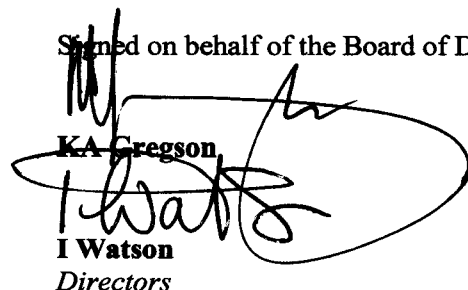
Balance sheet

at 31 March 2006

		2006	2005
		£'000	(restated) £'000
	Note		
Tangible fixed assets	9	<u>92,255</u>	<u>93,693</u>
Investment	10	<u>100</u>	<u>150</u>
Current assets			
Stocks and work in progress	11	3,945	3,034
Debtors and prepayments	12	5,491	5,728
Balances with States Treasury	13	19,847	18,062
Cash at bank and in hand		<u>139</u>	<u>117</u>
		<u>29,422</u>	<u>26,941</u>
Creditors: amounts falling due within one year	14	<u>(5,994)</u>	<u>(5,471)</u>
Net current assets		<u>23,428</u>	<u>21,470</u>
Total assets less current liabilities		115,783	115,313
Creditors: amounts falling due after more than one year	15	(2,452)	(2,283)
Provision for liabilities and charges	16	(740)	(680)
Net pension deficit	25	<u>(2,709)</u>	<u>(3,952)</u>
Net assets including pension deficit		<u>109,882</u>	<u>108,398</u>
Share capital	17	109,209	109,209
Profit and loss account	21	<u>673</u>	<u>(811)</u>
Shareholders' funds	22	<u>109,882</u>	<u>108,398</u>

The financial statements on pages 8 to 28 were approved by the Board of Directors on **23 June** 2006.

Signed on behalf of the Board of Directors


K.A. Gregson

I Watson
Directors

The notes on pages 12 to 28 form an integral part of these financial statements.

Cash flow statement

for the year ended 31 March 2006

		Year ended 31 March 2006 £'000	Year ended 31 March 2005 £'000
	Note		
Net cash inflow from operating activities	18	<u>3,754</u>	<u>4,710</u>
Returns on investments and servicing of finance			
Interest received		1,054	922
Interest paid		<u>(13)</u>	<u>(14)</u>
Net cash inflow from returns on investments and servicing of finance		<u>1,041</u>	<u>908</u>
Capital expenditure and financial investment			
Payments to acquire tangible fixed assets		(3,331)	(2,953)
Proceeds of disposal of tangible fixed assets		9	11
Customers' contributions towards capital expenditure		331	146
		<u> </u>	<u> </u>
Net cash outflow from capital expenditure and financial investment		<u>(2,991)</u>	<u>(2,796)</u>
Dividends paid		<u>(306)</u>	<u>(281)</u>
Net cash inflow before use of liquid resources and financing		<u>1,498</u>	<u>2,541</u>
Management of liquid resources			
Net cash movements with States Treasury		(1,785)	(2,527)
Exceptional item	6	<u>287</u>	<u>-</u>
Net cash outflow from management of liquid resources		<u>(1,498)</u>	<u>(2,527)</u>
Increase in cash	19 & 20	<u>-</u>	<u>14</u>

Movements in balances with States Treasury and the exceptional item are deemed liquid resources in accordance with Financial Reporting Standard 1 (as revised).

The notes on pages 12 to 28 form an integral part of these financial statements.

Notes to the financial statements

*Year ended 31 March 2006***1. Principal accounting policies**

The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the company's financial statements:

Basis of preparation

The financial statements have been prepared under the historical cost convention and in accordance with UK applicable accounting standards.

Change in accounting policies

The company has adopted Financial Reporting Standard 17, "Retirement Benefits", ("FRS17") and Financial Reporting Standard 21, "Events after the balance sheet date", ("FRS21"), for Dividends in these financial statements. These represent changes in accounting policy and the comparative figures have been restated accordingly.

The effect of the change in accounting policy to adopt FRS17 was to increase staff costs, other finance income and deferred taxation by £74,000 (2005: £473,000); £226,000 (2005: £3,000) and £30,000 (2005: credit £94,000) respectively, to increase profit for the year by £122,000 (2005: decrease £376,000) and to increase the total recognised gains and losses by £122,000 (2005: decrease £376,000).

The amount charged to the profit and loss account is the estimated regular cost of providing the benefits accrued in the year, adjusted to reflect variations from that cost. Such variations are charged or credited to the profit and loss account as a constant percentage of payroll over the estimated remaining working life of the scheme members. The scheme is funded with assets of the scheme held separately from those of the company.

The effect of the change in accounting policy to adopt FRS21 was to recognise the final proposed dividend for the year ended 31 March 2005 of £306,000 in the current year. The final proposed dividend for the year ended 31 March 2004 of £281,000 has been recognised in the year ended 31 March 2005.

Its adoption has led to a change in the accounting treatment for dividend provisions. Dividends are now accounted for when they become obligations of the company or when paid.

The effect of the change in accounting policies was to decrease the profit and loss reserve brought forward as at 1 April 2005 by £3,811,000.

Change in basis of taxation

The company has agreed with the States of Guernsey Income Tax Office that its basis of assessment to tax should be calculated on a current year basis for all Years of Charge from the commencement of the company's activities in Year of Charge 2002. The effect of this change in basis has been an increase to the deferred tax liability of the company in the prior year of £165,000 (before the FRS17 adjustment as discussed above).

Notes to the financial statements - continued

*Year ended 31 March 2006***1. Principal accounting policies - continued***Transfer of undertaking*

The company was established in accordance with the provisions of the States Trading Companies (Bailiwick of Guernsey) Law 2001 (Commencement) Ordinance and the States Trading Company (Bailiwick of Guernsey) Ordinance 2001 to take over the generation, importation and distribution of electricity previously carried out by the States of Guernsey Electricity Board with effect from 1 February 2002. The transfer value of the assets and liabilities introduced, together with the business undertaken in accordance with the enabling legislation, represents cost to Guernsey Electricity Limited. The directors have reviewed the amounts attributed and are satisfied that fair values have been applied and therefore no adjustment arises on any aspect of the transferred undertaking.

Sales of electricity

Sales of electricity include the estimated value of unbilled units at the year end. The unbilled units are valued at current tariff rates.

Hire purchase

The company provides hire purchase facilities on the provision of goods and services ancillary to the principal activities of the company. The sales value is included in turnover at the inception of the hire purchase transaction and interest is included in interest receivable over the finance period of the transaction.

Interest

Interest receivable and payable are accounted for on an accruals basis.

Deferred income

Premium income receivable in respect of lease arrangements entered into is recognised over the initial period of the lease. Customers' contributions towards capital expenditure are credited in equal annual amounts to the profit and loss account over the estimated life of the assets to which they relate.

Tangible fixed assets and depreciation

Tangible fixed assets are stated at cost less depreciation. Assets transferred from the States of Guernsey Electricity Board as at 1 February 2002 are being depreciated over their residual estimated useful lives from that date applying the periods noted below.

Depreciation is calculated so as to write off the cost of tangible fixed assets over the period of their estimated useful lives using the straight line method. The estimated life of each class of fixed asset is set out below. Depreciation commences in the year of acquisition or on completion of construction. Any shortfall of depreciation arising on the disposal or write-off of fixed assets is charged to the disposals account and any proceeds arising from the disposal are credited to that account. Land is not depreciated.

Notes to the financial statements - continued
Year ended 31 March 2006

1. Principal accounting policies - continued

Tangible fixed assets and depreciation - continued

The estimated lives are as shown below:

	Estimated life in years
Buildings	40
Buildings Equipment	10
Cable Link	25
Plant and machinery - Generation	25 – 30
- Distribution	35
- Street Lights	20
Distribution network comprising:	
Distributors	35
Meters	5 – 10
Cyclocontrol receivers	5
Motor vehicles	5
Furniture and equipment	3 – 10
Minor plant	5 – 10

Investments

Investments held as fixed assets are stated at cost less provision for any impairment.

Stocks and work in progress

Stocks and work in progress are valued at the lower of cost and net realisable value. In respect of goods held for resale a provision is made based on the time elapsed since the goods were purchased. Provision is made for other stocks relating to strategic plant based upon the remaining useful economic life of the assets to which they relate.

Leases

Operating lease rentals are charged to profit and loss in equal annual amounts over the lease term.

Deferred taxation

Provision for deferred tax is made in full on timing differences which result in an obligation at the balance sheet date to pay tax at a future date, at rates expected to apply when they crystallise based on current tax rates and laws. Deferred tax assets are only recognised to the extent that it is regarded as more likely than not that they will be recovered. The pension scheme deficit shown in the accounts is net of the deferred tax asset. Deferred tax assets and liabilities are not discounted.

Notes to the financial statements - continued

Year ended 31 March 2006

1. Principal accounting policies - continued

Foreign exchange

Transactions denominated in foreign currencies are translated into sterling at the rates ruling at the dates of the transactions. Monetary assets and liabilities denominated in foreign currencies at the balance sheet date are translated at the rates ruling at that date. Foreign currency profits and losses are dealt with in the profit and loss account.

Financial instruments

The company enters into forward exchange contracts to mitigate a large percentage of the risk of fluctuations in the currency rate between the Euro and the Pound Sterling in meeting its financial obligations for the import of electricity units from the European grid. Gains and losses on these contracts are deferred and recognised in the profit and loss account only when the delayed transaction has itself been reflected in the company's account.

The company does not hold or issue financial instruments for speculative purposes.

Pension costs

The employees' pension scheme is a defined benefits scheme. From this accounting period the company applies Financial Reporting Standard 17, "Post retirement benefits", ("FRS17"). In so doing current service cost and any past service cost is charged to the profit and loss account together with finance costs for the scheme. The difference between the expected and actual actuarial gains and losses are charged to the statement of total recognised gains and losses. Full actuarial valuations are carried out on a triennial basis and annual updates are carried out to disclose the values and assumptions in accordance with FRS17. The comparative figures have been restated as required by FRS17.

Joint arrangements

The Channel Islands Electricity Grid Limited is a joint arrangement between the Jersey Electricity Company Limited and Guernsey Electricity Limited. The company was formed to manage the project and the ongoing operation of the cable link between Guernsey, Jersey and France.

In accordance with Financial Reporting Standard 9, "Associates and Joint Ventures", ("FRS9") these financial statements include the company's entitlement to the assets, liabilities, cash flows and the shared items of this joint arrangement where the company's entitlements are fully determined by contracts with the other party to the joint arrangement.

2. Turnover

	Year ended 31 March 2006 £'000	Year ended 31 March 2005 £'000
Sales of electricity	26,631	25,284
Other sales	<u>2,738</u>	<u>2,529</u>
	<u>29,369</u>	<u>27,813</u>

All sales of electricity arise from customers in the Island of Guernsey. Other sales are made to customers throughout the Bailiwick of Guernsey.

Notes to the financial statements - continued

Year ended 31 March 2006

3. Cable link

The company previously had an ongoing obligation to its supplier, Electricité de France, to meet the cost of a minimum amount of electricity. Following the new pricing arrangements entered into with EdF, there is no longer a revenue commitment effective from 1 December 2005. The company remains committed to contribute towards the reinforcement of the French network. This liability is being satisfied by a revenue payment of approximately £110,000 per annum over the period of the contract.

The company is party to arrangements entered into on 29 November 1999 with the Jersey Electricity Company Limited, entering into a 35 year lease and lease back arrangements in the amount of £70.13 million in respect of the installation and operation of the Interconnector system between France, Jersey and Guernsey. The counterparties in the arrangement are Natwest Offshore Limited and the Royal Bank of Scotland International Limited.

On entering into the arrangements an initial premium of £1.45 million was received which is being amortised over 15 years (the initial period of the lease). At commencement annual receipts and payments under the lease and lease back arrangements both total £1.21m. This figure is set to escalate at 6% per annum over the duration of the lease. The company has an unconditional right of set-off of all committed lease payments against lease receipts such that there is no risk that net lease payments will be required.

There is current uncertainty on this matter since it was conditional that the Jersey rate of taxation remained at 20% throughout the period of the lease. Taxation in Jersey is currently going through a consultation period and initial drafting suggests that this rate may change with effect from 1 January 2009.

4. Operating (Loss)/Profit

Operating (loss)/profit is after charging/(crediting):

	Year ended 31 March 2006 £'000	Year ended 31 March 2005 £'000
Depreciation (note 9)	4,526	5,058
Investment impairment (note 10)	50	50
Rentals under operating leases	108	101
Auditors' remuneration - statutory audit	17	17
- non-audit services	6	7
Bad debts	17	29
Emoluments - non-executive directors	47	46
- executive directors (including pension)	402	359
Regulatory costs - external (excluding audit)	447	358
- internal	230	152
Other operating income	<u>(703)</u>	<u>(858)</u>

Notes to the financial statements - continued
Year ended 31 March 2006

5. Interest

	Year ended 31 March 2006 £'000	Year ended 31 March 2005 £'000
Interest receivable:		
Deposits with banks and States Treasury	936	829
Hire purchase	<u>118</u>	<u>93</u>
	<u>1,054</u>	<u>922</u>
Interest payable:		
Bank overdraft	6	8
Security deposits	<u>7</u>	<u>6</u>
	<u>13</u>	<u>14</u>

6. Exceptional item

Of the £5,350,000 that the States of Guernsey Electricity Board had on deposit with the Bank of Credit and Commerce International when it ceased trading on 5 July 1991, £5,167,945 has been recovered. £286,937 was received in the current year (2005: £Nil).

7. Taxation

The basis of assessment of trading income to Guernsey tax is now a current year basis for all Years of Charge from the commencement of the company's activities in Year of Charge 2002.

Current taxation

No charge for Guernsey income tax at 20p in the £ arises due to the adjusted loss for tax purposes for the year.

Notes to the financial statements - continued
Year ended 31 March 2006

7. Taxation - continued

Deferred taxation

Provision of £91,000 (2005: £175,000) for Guernsey income tax at 20p in the £ has been made in the profit and loss account due to timing differences arising from capital allowances exceeding depreciation for the period, unrelieved trading loss for tax purposes and short term timing differences due to pension accounting under FRS17 and other short term timing differences.

The deferred tax charge in the profit and loss account for the year is:

	Year ended 31 March 2006	Year ended 31 March 2005 (restated)
	£'000	£'000
Timing differences on capital allowances and depreciation	1,066	1,326
Short-term timing differences (pension)	30	(94)
Short term timing differences (other)	-	(8)
Unrelieved trading losses	<u>(1,005)</u>	<u>(1,049)</u>
	<u>91</u>	<u>175</u>

8. Dividend

	Year ended 31 March 2006	Year ended 31 March 2005 (restated)
	£'000	£'000
Paid in the year, £0.0028 per share (2005: £0.0026 per share)	<u>306</u>	<u>281</u>

Notes to the financial statements - continued

Year ended 31 March 2006

9. Tangible fixed assets

	1 April 2005 £'000	Additions £'000	Written off/ disposals £'000	31 March 2006 £'000
<i>Cost</i>				
Land and buildings	26,535	172	-	26,707
Cable link	28,928	-	-	28,928
Plant and machinery:				
Generation	29,876	1,452	98	31,230
Distribution	6,821	381	25	7,177
Distribution network	16,818	877	15	17,680
Motor vehicles, furniture and equipment, minor plant	<u>2,156</u>	<u>300</u>	<u>35</u>	<u>2,421</u>
	111,134	3,182	173	114,143
	1 April 2005 £'000	Charge for the year £'000	Written off/ disposals £'000	31 March 2006 £'000
<i>Depreciation</i>				
Land and buildings	2,894	736	-	3,630
Cable link	3,953	1,248	-	5,201
Plant and machinery:				
Generation	6,059	1,375	29	7,405
Distribution	697	179	6	870
Distribution network	2,796	632	9	3,419
Motor vehicles, furniture and equipment, minor plant	<u>1,042</u>	<u>356</u>	<u>35</u>	<u>1,363</u>
	17,441	4,526	79	21,888
Net book value	<u>93,693</u>			<u>92,255</u>

Included above are assets in the course of construction of £3,849,000 (2005: £3,417,000), which are not depreciated.

Notes to the financial statements - continued

Year ended 31 March 2006

10. Investment

The company invested £250,000 in Marine Current Turbines Limited as part of its initiatives to keep abreast of the research and development of alternative energy sources. This investment is a minority interest and the holding is less than 5%. The benefits of this investment are spread over more than one year, and £50,000 has been charged to the profit and loss account for impairment (2005: £50,000).

11. Stocks and work in progress

	2006		2005	
	£'000	£'000	£'000	£'000
Fuel stocks		1,811		1,030
Purchased goods for resale	259		252	
Provision	<u>4</u>	255	<u>5</u>	247
Other stocks	2,637		2,641	
Provision	<u>974</u>	1,663	<u>974</u>	1,667
Work in progress		<u>216</u>		<u>90</u>
		<u>3,945</u>		<u>3,034</u>

12. Debtors and prepayments

	2006	2005
	£'000	£'000
Estimated value of unbilled units	2,862	2,611
Customer accounts outstanding	2,013	2,202
Other debtors	291	342
Prepayments	<u>325</u>	<u>573</u>
	<u>5,491</u>	<u>5,728</u>

Included in "Customer accounts outstanding" is an amount of £157,000 due after more than one year

13. Balances with States Treasury

The treasury department of the States of Guernsey is engaged to invest the company's liquid funds in excess of its daily requirements.

Notes to the financial statements - continued
Year ended 31 March 2006

14. Creditors: amounts falling due within one year

	2006	2005 (restated)
	£'000	£'000
Bank overdraft	70	48
Trade creditors	2,055	1,454
Customer payments received in advance	2,784	2,719
Employee taxes and Social Security	259	244
Deferred income	152	142
Accruals and other creditors	674	864
Dividend payable	—	—
	<u>5,994</u>	<u>5,471</u>

The company has a £2 million overdraft facility, and interest is payable quarterly at 1% over UK base rate. This facility is unsecured and is repayable on demand and is reviewed and approved by the Board annually.

15. Creditors: amounts falling due after more than one year

	2006	2005
	£'000	£'000
Deferred income	<u>2,452</u>	<u>2,283</u>

16. Provision for liabilities and charges

	2006	2005 (restated)
	£'000	£'000
Deferred taxation:		
Balance at 1 April	(308)	(987)
Profit and loss account charge	91	175
Statement of total recognised gains and losses	<u>280</u>	<u>504</u>
Balance at 31 March	<u>63</u>	<u>(308)</u>
Which comprises:		
Capital allowances in excess of depreciation	6,435	5,370
Short-term timing differences (other)	(44)	(44)
Unrelieved trading loss for tax purposes	<u>(5,651)</u>	<u>(4,646)</u>
Provision for liabilities and charges	<u>740</u>	<u>680</u>
Deferred tax asset on pension deficit (note 25)	<u>(677)</u>	<u>(988)</u>

17. Share capital

	2006	2005
	£'000	£'000
<i>Authorised:</i>		
125,000,000 ordinary shares of £1 each	<u>125,000</u>	<u>125,000</u>
<i>Issued and fully paid:</i>		
109,208,844 ordinary shares of £1 each	<u>109,209</u>	<u>109,209</u>

Two shares were issued on formation of the company and the remaining 109,208,842 shares were issued to equate to the consideration of £109,208,844 for the net assets acquired by the company from the States of Guernsey with effect from 1 February 2002.

Notes to the financial statements - continued
Year ended 31 March 2006

**18. Reconciliation of operating (loss)/profit
to net cash inflow from operating activities**

	Year ended 31 March 2006	Year ended 31 March 2005 (restated)
	£'000	£'000
Operating (loss)/profit	(710)	44
Depreciation charge	4,526	5,058
Pension service cost	1,259	1,175
Employers' pension cash contributions	(1,185)	(702)
Investment impairment	50	50
Deferred income	(152)	(142)
Increase in stocks and work in progress	(911)	(310)
Decrease/(increase) in debtors and prepayments	237	(1,082)
Increase in creditors	<u>640</u>	<u>619</u>
	<u>3,754</u>	<u>4,710</u>

19. Reconciliation of net cash flow to movement in net funds

	Year ended 31 March 2006	Year ended 31 March 2005
	£'000	£'000
Increase in cash in the year	-	14
Cash used to increase liquid resources	<u>1,785</u>	<u>2,527</u>
Change in net funds	1,785	2,541
Net funds at 1 April	<u>18,131</u>	<u>15,590</u>
Net funds at 31 March	<u>19,916</u>	<u>18,131</u>

20. Analysis of changes in net funds

	At 1 April 2005	Cash flows	At 31 March 2006
	£'000	£'000	£'000
<i>Cash</i>			
Cash at bank and in hand	117	22	139
Bank overdraft	<u>(48)</u>	<u>(22)</u>	<u>(70)</u>
	69	-	69
Balances with States Treasury	<u>18,062</u>	<u>1,785</u>	<u>19,847</u>
	<u>18,131</u>	<u>1,785</u>	<u>19,916</u>

Notes to the financial statements - continued
Year ended 31 March 2006

21. Profit and loss reserve

	Year ended 31 March 2006	Year ended 31 March 2005 (restated)
	£'000	£'000
Balance at 1 April brought forward (2005 - as previously stated)	(811)	1,974
Prior year adjustments - FRS17 (pensions)	-	(5,593)
- FRS21 (dividends)	-	281
- Tax	-	20
	<u>(811)</u>	<u>(3,318)</u>
Profit for the year	362	490
Actuarial gain recognised in the pension scheme, net of movement in deferred tax relating to pension deficit	1,122	2,017
Balance at 31 March carried forward	<u>673</u>	<u>(811)</u>

22. Reconciliation of movements in shareholders' funds

	Year ended 31 March 2006	Year ended 31 March 2005 (restated)
	£'000	£'000
Shareholders' funds at 1 April brought forward (2005 - as previously stated)	108,398	111,183
Prior year adjustments - FRS17 (pensions)	-	(5,593)
- FRS21 (dividends)	-	281
- Tax	-	20
	<u>108,398</u>	<u>105,891</u>
Profit for the year	362	490
Actuarial gain recognised in the pension scheme, net of movement in deferred tax relating to pension deficit	<u>1,122</u>	<u>2,017</u>
Shareholders' funds at 31 March	<u>109,882</u>	<u>108,398</u>

Notes to the financial statements - continued
Year ended 31 March 2006

23. Commitments

Capital commitments for which no provision has been made in these financial statements amounted to £3,354,000 as at 31 March 2006 (2005: £3,524,000). These relate to outstanding commitments on capital projects across a range of asset categories.

Operating lease commitments

Commitments to make payments during the next year in respect of an operating lease are as follows:

	2006 £'000	2005 £'000
<i>Land and Buildings</i>		
Lease which expires within two to five years	52	52
<i>Furniture and equipment</i>		
Lease which expires within two to five years	<u>56</u>	<u>56</u>

24. Financial instruments

The company's commitment to forward contracts at the balance sheet date was as follows:

	2006 Euros €'000	2005 Euros €'000
Forward contracts to purchase Euro	<u>15,366</u>	<u>9,700</u>
	£'000	£'000
Contracted prices	<u>10,595</u>	<u>6,874</u>
Closing value at 31 March	<u>10,717</u>	<u>6,655</u>
Unrecognised and unrealised gains/(losses)	<u>122</u>	<u>(219)</u>

All forward contracts mature within eighteen months of the balance sheet date.

The sterling/euro rate at 31 March 2006 was 1.4338 (2005: 1.4576).

Notes to the financial statements - continued

*Year ended 31 March 2006***25. Pension Scheme**

The employees of the company are members of the States of Guernsey Public Servants Pension Scheme (PSPS). This is a defined benefits pension scheme funded by contributions from both employer and employee to the PSPS at rates which are determined on the basis of independent actuarial advice, and which are calculated to spread the expected cost of benefits payable to employees over the period of those employees' expected service lives.

The last triennial actuarial valuation of the PSPS was carried out as at 31 December 2004.

As the PSPS is a multi entity arrangement the States of Guernsey contracted the Scheme's qualified independent actuaries to identify the actuarial account for each entity and therefore the value of the pension fund assets and liabilities attributable to this company. The valuation at 31 December 2004 recommended the increase of employer's contribution from 8.35% to 16.3% from 1 April 2006 and this has been approved by the States of Guernsey. In recognising that further contribution was required to reduce the past service deficit, it was resolved by the Board of Directors to reduce the deficit by lump sums over a period of years. An additional sum of £412,000 has been provided for this year (2005: £491,000).

The total amount of pension contributions for the year ended 31 March 2006 was £1,185,000 (2005: £993,000). £Nil was accrued but not yet paid as at 31 March 2006 (2005: £251,000).

The company recognises the requirements of Financial Reporting Standard 17 ("FRS17") on Retirement Benefits, and this standard has been adopted this year on the following basis:

Financial Assumptions	31 March 2006 % p.a.	31 March 2005 % p.a.	31 March 2004 % p.a.
Discount rate	4.9	5.3	5.4
Inflation	3.0	2.9	2.9
Increases to deferred benefits during deferment	3.1	3.0	3.0
Increases to pensions in payment	3.1	3.0	3.0
Increases to salaries	4.5	4.4	4.4

Notes to the financial statements - continued

Year ended 31 March 2006

25. Pension Scheme - continued

Market value of scheme assets

	Market value at 31 March 2006		Expected return on assets	Market value at 31 March 2005 (restated)		Expected return on assets	Market value at 31 March 2004		Expected return on assets
	£'000	%	% p.a.	£'000	%	% p.a.	£'000	%	% p.a.
Equities	25,706	79.72	8.00	19,379	76.82	7.75	16,901	76.07	7.75
Bonds	6,014	18.65	4.50	5,279	20.93	4.90	4,892	22.01	4.80
Cash and net current assets	<u>527</u>	<u>1.63</u>	4.50	<u>568</u>	<u>2.25</u>	4.75	<u>426</u>	<u>1.92</u>	4.00
Market value of the scheme assets	32,247	100.0	7.3	25,226	100.0	7.1	22,219	100.0	6.8
Present value of the Scheme liabilities	<u>35,633</u>			<u>30,166</u>			<u>29,210</u>		
Deficit in the scheme	(3,386)			(4,940)			(6,991)		
Related deferred tax asset (assuming Guernsey income tax at 20%)	<u>677</u>			<u>988</u>			<u>1,398</u>		
	<u>(2,709)</u>			<u>(3,952)</u>			<u>(5,593)</u>		

The asset and liability values on the FRS 17 basis reflect market conditions at the company's year-end date and can be expected to vary greatly from year to year, without prejudicing the scheme's long-term ability to provide the required benefits.

Notes to the financial statements - continued

Year ended 31 March 2006

25. Pension Scheme - continued

<i>Analysis of the amount charged to operating profit</i>	2006	2005
	£'000	£'000
Current service cost	1,259	1,175
Past service cost	—	—
Total operating charge	<u>1,259</u>	<u>1,175</u>
 <i>Analysis of the amount charged to other finance costs</i>	 2006	 2005
	£'000	£'000
Expected return on pension scheme assets	1,819	1,576
Interest on pension scheme liabilities	<u>(1,593)</u>	<u>(1,573)</u>
Net return	<u>226</u>	<u>3</u>
 <i>Analysis of amount recognised in the statement of total recognised gains and losses (STRGL)</i>	 2006	 2005
	£'000	£'000
Actual return less expected return on pension scheme assets	4,000	675
Experience gains and losses arising on scheme liabilities	791	2,039
Changes in assumptions underlying the present value of scheme liabilities	<u>(3,389)</u>	<u>(193)</u>
Actuarial gain recognised in STRGL	<u>1,402</u>	<u>2,521</u>
 <i>Movement in deficit during the year</i>	 2006	 2005
	£'000	£'000
Deficit in scheme at beginning of the year	(4,940)	(6,991)
Movement in year:		
Current service costs	(1,259)	(1,175)
Contributions	1,185	702
Past service costs	—	—
Other finance income	226	3
Actuarial gain	<u>1,402</u>	<u>2,521</u>
Deficit in scheme at end of the year	<u>(3,386)</u>	<u>(4,940)</u>

Notes to the financial statements - continued

Year ended 31 March 2006

25. Pension Scheme - continued

<i>History of experience gains and losses</i>	2006	2005	2004
	£'000	£'000	£'000
Difference between the actual and expected return on scheme assets:			
Amount (£)	4,000	675	3,313
Percentage of scheme assets	12%	3%	15%
Experience gains and losses on scheme liabilities:			
Amount (£)	791	2,039	(576)
Percentage of the present value of the scheme liabilities	2%	7%	(2%)
Total amount recognised in statement of total recognised gains and losses:			
Amount (£)	1,402	2,521	485
Percentage of the present value of the scheme liabilities	4%	8%	2%

26. Statement of control

The company is wholly owned and ultimately controlled by the States of Guernsey.

27. Related party transactions

There are no disclosable related party transactions in this financial year.

Of the company's annual income and expenditure, less than 20% of their respective value is due to transactions with other States entities.

APPENDIX II

TREASURY AND RESOURCES DEPARTMENT

GUERNSEY POST LIMITED - SUBMISSION OF ANNUAL ACCOUNTS

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

31st July 2006

Dear Sir

Under Section 8 of the States Trading Companies (Bailiwick of Guernsey) Ordinance 2001, the year end accounts of Guernsey Post Limited are required to be published as an appendix to a Billet d'État.

As reported previously, the year-end for Guernsey Post Limited has changed from the 30 September to 31 March (coincidentally the same as Guernsey Electricity) as it better fits the business cycle.

I therefore submit the Report and Financial Statements of Guernsey Post Limited for the six month period ended 31 March 2006.

As set out in the Chairman's Statement, the change of reporting period, the introduction of the accounting changes in respect of pension accounting and the inability to revise postal tariffs during the period, means that a meaningful comparison with prior periods is difficult.

The Treasury and Resources Department is, of course, very pleased to see the continuing operational improvement in the Post Office in recent years.

I should be grateful if you would include this matter as an Appendix to the September 2006 Billet d'État.

Yours faithfully

L S Trott
Minister

Guernsey Post Limited

Report and financial statements

For the six months financial period ended 31 March 2006

Directors:

D R Jehan (Chairman)

Managing Director (vacant)

J Domican

M Johnson

J Kitts

R A Perrot

D T Roberts

Auditors:

KPMG Channel Islands Limited
Chartered Accountants

Registered office:

Envoy House
La Vrangue
St Peter Port
GUERNSEY
GY1 1AA

Chairman's Statement

It is my sad duty to report the death of Mike Hall, our managing director on 2nd July following a period of illness bravely borne. It was a pleasure and an honour to work with him and it is my personal loss that our time together was so short. In a public statement, the Chief Minister, Deputy Laurie Morgan said, "At a personal level I had great admiration for Mike. He was clearly a talented, hard working individual who was well liked and respected by his staff. He was, in my view, the architect behind the recovery and reshaping of Guernsey Post having joined them in March 2003 at a time when the business had just been through perhaps the most difficult period in its history. With the help of his staff, he turned Guernsey Post around, restoring its reputation and sense of pride". All of us at Guernsey Post associate ourselves with these sentiments.

Winning the 'Best Large Business of the Year' at this year's annual award ceremony was a fitting tribute to Mike and was something of which he was so proud.

These financial statements cover only a six month period reflecting the change in year-end from September to March. The Company has revised its reporting period the better to align with its business cycle. Within the postal industry, April to March is the dominant cycle for contracts, tariff changes and employee negotiations. Because of this change, complicated further by the introduction of FRS17 (the accounting standard for pension schemes) a meaningful comparison with prior periods is difficult. The Company is reporting an accounting loss before tax of £161,000 and consequently is not declaring a dividend. The introduction of the new accounting policy has resulted in a restatement of the previously reported revenue reserves. This is detailed in note 12 to the accounts.

In this final quarter of the tariff control, set in 2004, the inability to revise prices to reflect unavoidable cost increases hits hardest. However, it is reassuring to report that, excluding the impact of FRS17, the Company traded profitably.

The last six months has seen Guernsey Post remain in the spotlight with the OUR's review of the Universal Service Obligation. The Board does not wish to see any further deterioration in service provision to the community and supports Commerce and Employment's view that the USO should remain largely unchanged. With particular regard to Retail Services, the Company has noted the enthusiasm that the public has shown for retaining post offices.

Postal Operations has continued to provide an excellent service to customers large and small. 20 of the 23 targets set by OUR have been exceeded. The areas in which targets have not been met are not totally under the control of the Company but they continue to be a priority for improvement.

The year ahead will continue to prove challenging for the Company to meet the needs and expectations of its Shareholder, customers and employees and the following issues will need to be dealt with:

- a new submission will be made to the OUR to revise tariffs for the period April 2007 to March 2010. It is regrettable that 2007 will see further tariff changes, but Guernsey Post has no option but to respond to significant increases in Royal Mail charges in the UK
- management must forge new business relationships so as to ensure that it achieves the best prices for its customers as liberalisation introduces new players to the destination postal markets
- pressures from commercial competition in the non-regulated areas in Guernsey
- the States' Pension scheme and its impact on Guernsey Post remains a significant business risk that management and Unions must work together to respond to
- Retail must respond to the demands for greater efficiency whilst not losing its public-endorsed island-wide network
- Philatelic needs to maintain its high standards and continue to produce stamps which capture the customer's imagination.

As a regulated entity, dependent upon the cross-financial year decisions of the OUR with regard to tariff changes and timing, the Company cannot necessarily expect to make a profit in any one accounting period. This volatility in annual reported performance is appreciated by the Shareholder and its impact on the Company's ability to pay regular dividends.

On behalf of the Board of Directors, I would like to thank all who have contributed to the continued success of the Company and to seek their support over the years ahead.

Dudley R Jehan

Chairman

Executive Team's Report

The Executive Team would like to take the opportunity in writing this report to express its sadness, and that felt by all staff of Guernsey Post, on the news of the death of our Managing Director, Mike Hall. It has been his leadership, both in setting directions and managing their implementations, that has turned the performance of the Company around and made it one for which the team is proud to work.

These financial statements, representing only a six month period, show the difficulty that exists when the tariff regime which drives revenue has been fixed for two years whilst the cost base has continued to increase reflecting inflationary pressures and particularly those of Royal Mail charges, oil price increases and additional air freight security measures. The reported financial results have been impacted by the application of FRS17, 'retirement benefits'. The performance for the Company, before the impact of FRS17, has been to achieve a small profit before tax. This performance, despite the on-going cost increases imposed by our main business contractors, is a continuing reflection on:

- rigorous application of financial and managerial controls within our operations,
- increasing traffic from our major customers, and
- continuing good performance from the Philatelic Bureau.

The operational performance for the six months has again reflected the balance of emphasis on both cost and quality with the high performance against quality standards continuing. The highlights have been:

- local letters collected and delivered with the Bailiwick achieving 94.5%, exceeding the OUR target again
- another successful Christmas with customers again enjoying a discounted service for the early posting of cards
- standard mail to the UK achieving 84.3% (J+1) next-day delivery, exceeding the OUR and comparable with levels of service experienced in major UK cities
- the development of Royal Mail Special Delivery to provide an improved service for this secure express product that better meets customers' needs
- the successful launch of the philatelic website to bring enhanced internet-based selling. Web-based sales have grown significantly this year.

The team is not complacent as there are areas where the quality is not yet meeting its targets. Bulk mail enters the UK either unsorted or sorted. The OUR unsorted target is 80% and this was narrowly missed with only 78% achieving target. However the sorted target of 91% was achieved. In Retail Services an extensive customer survey showed many areas where the Company performance was rated highly but also highlighted opportunities where improvement will be necessary to meet the expectations of the customers. Examples include queuing times, value for money and store presentation.

A new set of tariffs and bulk products has been agreed by OUR to apply in the new financial year and that should allow Guernsey Post to continue to provide a viable postal operation for the Bailiwick.

Overall the six months has been one of continuing success but with more still to achieve. Many thanks to all our work colleagues and the trade unions for their contribution to this success.

Martin Johnson

Finance Director, on behalf of the Executive Team

Directors' report

The directors present their report and the audited financial statements for the six months ended 31 March 2006. The financial year end of the Company has changed from September to March. The reason for this change is explained in the Chairman's report on page 3.

Principal activities

The company's principal activity is the provision of a postal service for the Bailiwick of Guernsey through a postal network and retail counter operation. The company also markets its postage stamps and other philatelic products to stamp collectors worldwide.

Results

The results for the year are shown in the profit and loss account on page 10.

Dividend

The directors have recommended that no dividend is paid for this financial period. In the previous financial statements for the 12 months ending 30 September 2005 a dividend of £391,000, being £0.017466 per share was recommended and subsequently paid. Because the dividend in 2005 was declared after the balance sheet date the comparative figures have been restated to reflect the impact of FRS 21 'events after the balance sheet date'. The comparative figures in the Profit and Loss account do not show a dividend as no dividend was paid in the comparative period and in the balance sheet creditors does not include a dividend creditor. The impact on the opening retained reserves at 1 October 2005 was to increase them by £391,000

Fixed assets

Fixed asset movements for the year are disclosed in note 5 to the accounts.

Directors

The directors of the company who were appointed and held office during the financial period were as follows:

J Domican
M R Hall (deceased 2 July 2006)
D R Jehan
M Johnson
J Kitts
R A Perrot
D T Roberts

In accordance with the Articles of Association D R Jehan is due to retire by rotation and being eligible offers himself for re-election at the forthcoming AGM

Directors' report - continued

Statement of responsibilities

The directors are responsible for preparing financial statements for each financial year which give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period and are in accordance with applicable laws. In preparing those financial statements the directors are required to:

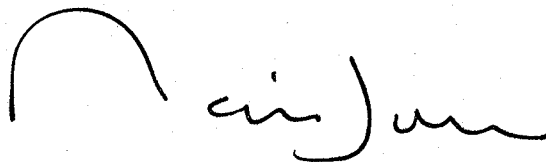
- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable accounting standards have been followed subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis, unless it is inappropriate to presume that the company will continue in business.

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

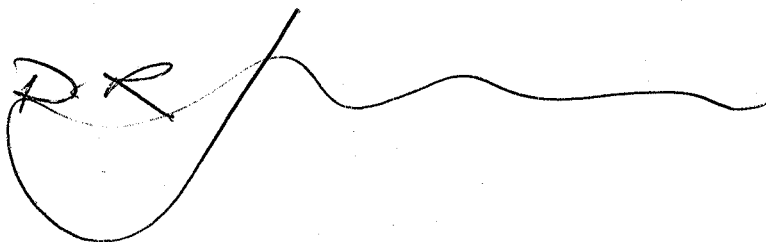
Auditors

A resolution for the reappointment of KPMG Channel Islands Limited as auditors of the company at a remuneration to be determined by the Board from time to time is to be proposed at the forthcoming Annual General Meeting.

M Johnson
Director



D R Jehan
Director



20 New Street
St. Peter Port
Guernsey
GY1 4AN

Independent auditors' report to the members of Guernsey Post Limited

We have audited the financial statements (the "financial statements") of Guernsey Post Limited for the period from 1 October 2005 to 31 March 2006 which comprise the Profit and Loss Account, the Statement of Total Recognised Gains and Losses, the Balance Sheet, the Cash Flow Statement and the related notes. These financial statements have been prepared under the accounting policies set out therein.

This report is made solely to the company's members, as a body, in accordance with section 64 of The Companies (Guernsey) Law, 1994 and Section 10(1) of The Post Office (Guernsey) Law, 1969. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of directors and auditors

The directors are responsible for preparing the Directors' Report and the financial statements in accordance with applicable Guernsey law and UK accounting standards as set out in the Statement of Directors' Responsibilities on page 7.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with The Companies (Guernsey) Law, 1994. We also report to you if, in our opinion, the company has not kept proper accounting records, or if we have not received all the information and explanations we require for our audit.

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

We read the other information accompanying the financial statements and consider whether it is consistent with those statements. We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the financial statements.

Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In our opinion the financial statements:

- give a true and fair view, in accordance with UK Accounting Standards, of the state of the company's affairs as at 31 March 2006 and of its loss for the period from 1 October 2005 to 31 March 2006; and
- have been properly prepared in accordance with The Companies (Guernsey) Law, 1994 and Section 10(1) of The Post Office (Guernsey) Law, 1969

Chartered Accountants
Guernsey

Profit and loss account <i>for the six months ended 31 March 2006</i>		1 Oct 2005 to 31 March 2006 £'000	1 Oct 2004 to 30 Sept 2005 £'000 (restated)
	Notes		
Income		13,661	23,894
Expenditure		14,181	23,716
(Loss)/profit on ordinary activities before other income	2	(520)	178
Other income			
Interest receivable	3	232	800
Rents receivable		31	55
(Loss)/ profit on ordinary activities before pension scheme costs and taxation		(257)	1,033
Other finance income/(costs)	17	96	(27)
(Loss)/profit on ordinary activities before taxation		(161)	1,006
Taxation (charge)	4	(26)	(558)
(Loss)/profit for the financial period		(187)	448

Statement of total recognised gains and losses <i>for the six months ended 31 March 2006</i>		1 Oct 2005 to 31 March 2006 £'000	1 Oct 2004 to 30 Sept 2005 £'000 (restated)
Retained (loss)/profit for the financial period		(187)	448
Actuarial gains recognised in the Pension Scheme	17	559	2,942
Total recognised gains and losses for the financial period		372	3,390

All activities derive from continuing operations

The notes on pages 13 to 28 form part of these financial statements

Balance sheet <i>as at 31 March 2006</i>		1 Oct 2005 to 2006 £'000	1 Oct 2004 to 30 Sept 2005 £'000 (restated)
	Notes		
Fixed Assets			
Tangible assets	5	15,984	16,217
Investment in subsidiary	6	-	-
		15,984	16,217
Current assets			
Stock		109	124
Debtors	7	3,029	2,508
Cash at bank and in hand	15	12,564	9,282
		15,702	11,914
Creditors: amounts falling due within one year	8	(7,562)	(3,641)
Net current assets		8,140	8,273
Total assets less current liabilities		24,124	24,490
Provision for liabilities and charges	9	1	(34)
Net Pension deficit	17	(1,994)	(2,306)
Total net assets		22,131	22,150
Financed by			
Share capital	11	22,386	22,386
Revenue reserve	12	(255)	(236)
	13	22,131	22,150

These financial statements were approved by the Board of Directors on

Signed on the Board's behalf

M Johnson
Director

D R Jehan
Chairman

The notes on pages 13 to 28 form part of these financial statements

Cash flow statement <i>as at 31 March 2006</i>	Notes	1 Oct 2005 to 2006 £'000	1 Oct 2004 to 30 Sept 2005 £'000
Net cash flow from operating activities	15	3,564	(7,787)
Returns on investments and servicing of finance			
Interest received		232	800
Rent received		31	54
Dividend paid		<u>(391)</u>	<u>-</u>
Net cash inflow from returns on investments and servicing of finance		(128)	854
Taxation		-	-
Capital expenditure			
Payment to acquire tangible fixed assets		(156)	(387)
Proceeds from sales of tangible fixed assets		<u>2</u>	<u>11</u>
Net cash outflow from capital expenditure		(154)	(376)
Increase/(decrease) in cash	15	<u>3,282</u>	<u>(7,309)</u>

The notes on pages 13 to 28 form part of these financial statements

Notes to the financial statements

1. Accounting policies

The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the company's financial statements.

Basis of preparation

These financial statements have been prepared under the historical cost convention, and in accordance with applicable United Kingdom generally accepted accounting principles.

Change in accounting policies

The company has adopted Financial Reporting Standard 17, "Retirement Benefits", ("FRS17") and Financial Reporting Standard 21, "Events after the balance sheet date", ("FRS21"), in these financial statements. These represent changes in accounting policy and the comparative figures have been restated accordingly.

The effect of the change in accounting policy to adopt FRS17 was to increase staff costs, other finance income and deferred taxation credit by £265,000 (2005: £532,000); £96,000 (2005: £(27,000)) and £498,000 (2005: £576,000) respectively, to increase the loss for the period by £247,000 (2005: decrease profit by £1,037,000) and to increase the total recognised gains and losses by £559,000 (2005: increase £2,942,000).

The effect of the change in accounting policy to adopt FRS21 was to recognise the final proposed dividend for the year ended 30 September 2005 of £391,000 in the current year. No dividend was declared in relation to the year ended 30 September 2004 and as such no dividend is recognised in the year ended 30 September 2005.

The effect of the change in accounting policies was to decrease the profit and loss reserve brought forward as at 1 October 2005 by £1,915,000. This coupled with the 2006 impact of these accounting treatments has caused the reserve to move into a deficit position at the year end.

Income

Sales of stamps and the crediting of franking machines are accounted for on a receipts of funds basis. All other income is accounted for on an accruals basis.

Notes to the financial statements - continued

1. Accounting policies - continued*Expenses*

Postal operations expenses are charged as incurred. No provision is made for any charges which may be incurred in handling or delivering mail in respect of stamps and franking machine credits sold but unused at the balance sheet date.

Deferred Taxation

Provision for deferred taxation is made in full on timing differences which result in an obligation at the balance sheet date to pay tax at a future date, at rates expected to apply when they crystallise based on current tax rates and laws. Deferred tax assets are only recognised to the extent that it is regarded as more likely than not that they will be recovered. Deferred tax assets and liabilities are not discounted. The pension scheme deficit shown in the balance sheet is net of the deferred tax asset.

Pension costs

The amount charged to the profit and loss account is the estimated regular cost of providing the benefits accrued in the year, adjusted to reflect variations from that cost. Such variations are charged or credited to the profit and loss account as a constant percentage of payroll over the estimated remaining working life of the scheme members. The scheme is funded with assets of the scheme held separately from those of the company.

The pension scheme is a defined benefit scheme. The cost of providing benefits is determined using the projected unit credit method, with an actuarial valuation being carried out at the balance sheet date. Actuarial gains and losses are recognised in full in the period in which they occur. They are recognised outside the profit or loss and presented in the statement of total recognised gains and losses. Past service cost is recognised immediately to the extent that the benefits are already vested, and otherwise is amortised on a straight-line basis over the average period until the benefits become vested. The retirement benefit deficit recognised in the balance sheet represents the present value of the defined benefit obligation as adjusted for unrecognised past service cost, and as reduced by the fair value of scheme assets. Any asset resulting from this calculation is limited to past service cost, plus the present value of available refunds and reductions in future contributions to the scheme.

Dividends

Dividends are accounted for when they become obligations of the company or when paid.

Notes to the financial statements - continued

1. Accounting policies - continued*Stock*

The cost of definitive stamps, including the non-value indicator self-stick range, is written off over the expected sales life of each type of stamp, which is unlikely to exceed three years. Commemorative stamp costs are fully written off in the year of issue.

Other stocks are valued at the lower of cost and net realisable value.

Tangible fixed assets

Tangible fixed assets are stated at cost less depreciation. Depreciation is not provided on freehold land, but is provided on other fixed assets and is calculated at the following rates so as to write off the cost of tangible fixed assets over their estimated useful lives using the straight-line method. A full year's depreciation is charged in the year of acquisition

	Estimated life in years	Depreciation % per annum
Freehold land	N/A	Nil
Freehold buildings	30 – 50	2 – 3.3
Furniture and fittings, office equipment and postal machinery	3 – 10	10 – 33.3
Transport	5	20

Investment in subsidiary

Investment in subsidiary is stated at cost. The subsidiary has not been consolidated on the basis that it is dormant, and non-consolidation does not have a material impact on these financial statements.

Notes to the financial statements - continued

2. Profit/loss on ordinary activities before other income

Operating profit/(loss) is after charging:

	2006 £'000	2005 £'000
Payroll costs	5,213	9,716
Auditors remuneration		
Audit Fees	11	10
Other services	14	10
(Profit)/loss on disposal of fixed assets	2	(10)
Depreciation	385	813

Average full time equivalent employee numbers for the period were as follows:

	2006	2005
Operational staff including activities allied to operations	228	228
Other staff	58	58
Total	<u>286</u>	<u>286</u>

3. Interest receivable

	2006 £'000	2005 £'000
States Treasury	222	775
Other	10	25
	<u>232</u>	<u>800</u>

Notes to the financial statements - continued

4. Taxation

The actual tax charge differs from the expected tax charge computed by applying the standard rate of Guernsey income tax of 20% as follows:

	Note	2006 £'000	2005 £'000 (restated)
Current taxation			
Expected tax (credit)/charge		-	201
Timing differences		-	27
Effect of transitional provision		-	(149)
Unutilised losses brought forward		-	(144)
Adjustment due to implementation of FRS17			112
Current year tax (credit)/charge		<u>0</u>	<u>47</u>
less: adjustment for prior year		<u>(17)</u>	<u></u>
		(17)	47
Deferred taxation			
Timing differences:	9	43	511
Actual tax charge		<u><u>26</u></u>	<u><u>558</u></u>

The basis of assessment of trading income to Guernsey tax is changing from a prior year basis to a current basis from 2006. The trading profits shown in these accounts are subject to transitional provisions under the Taxes & Duties (Provisional Effect) (Guernsey) Law 1992.

Notes to the financial statements

5. Tangible fixed assets

	1 October 2005 £'000	Additions £'000	Written off/disposals £'000	31 March 2006 £'000
<i>Cost</i>				
Freehold land	2,505	-	-	2,505
Freehold buildings	12,102	3	(4)	12,101
Furniture and fittings	111	-	-	111
Office equipment	1,023	74	(94)	1,003
Postal machinery	3,058	6	-	3,064
Transport	677	73	-	750
	<u>19,476</u>	<u>156</u>	<u>(98)</u>	<u>19,534</u>
<i>Depreciation</i>				
Freehold land	-	-	-	-
Freehold buildings	745	122	-	867
Furniture and fittings	118	2	-	120
Office equipment	808	35	(94)	749
Postal machinery	1,162	183	-	1,345
Transport	426	43	-	469
	<u>3,259</u>	<u>385</u>	<u>(94)</u>	<u>3,550</u>
<i>Net book value</i>	<u>16,217</u>			<u>15,984</u>

Notes to the financial statements - continued

6. Investment in subsidiary

	2006 £'000	2005 £'000
Independent Delivery Solutions Limited	-	-

Guernsey Post Limited owns all the share capital, consisting of two fully paid up £1 shares (2005: two fully paid up £1 shares) in Independent Delivery Solutions Limited. This is a dormant company and has never traded.

7. Debtors

	2006 £'000	2005 £'000
Trade debtors	2,809	2,251
Other debtors	83	136
Prepayments and accrued income	137	121
	<u>3,029</u>	<u>2,508</u>

8. Creditors

	2006 £'000	2005 £'000 (restated)
Amounts falling due within one year		
Trade creditors	5,715	1,598
Other creditors	1,438	1,627
Accruals and deferred income	379	369
Taxation payable	30	47
Dividend payable	-	-
	<u>7,562</u>	<u>3,641</u>

Notes to the financial statements - continued

9. Provision for liabilities and charges

	2006 £'000	2005 £'000 (restated)
Total as at 31 March (2005: 30 September)	<u>1,994</u>	<u>2,341</u>
This provision comprises of:		
Deferred taxation		
As at 1 October	(542)	(1,053)
Profit and loss account charge	43	511
As at 31 March (2005: 30 September)	<u>(499)</u>	<u>(542)</u>
Which comprises of:		
Unrelieved pension scheme deficit	(498)	(576)
Other		
Capital allowances in excess of depreciation	80	34
Unrelieved tax loss for tax purposes	(81)	-
	<u>(1)</u>	<u>34</u>
Pension scheme deficit		
As at 1 October	2,882	5,265
Profit and loss account charge	(390)	(2,383)
As at 31 March (2005: 30 September)	<u>2,492</u>	<u>2,882</u>
Unrelieved pension scheme deficit	(498)	(576)
	<u>1,994</u>	<u>2,306</u>

10. Contingent assets and liabilities

The Company has made a claim in the German courts against Siemens, the supplier of certain mechanisation equipment, on the basis that the performance specification achievable is not consistent with that defined in the purchase contract. This case is currently progressing through the legal system, having been subject to the assessment of an independent expert, and at the balance sheet date neither the opinion of the expert nor the subsequent judgement has been made and this remains the situation.

The success of the claim cannot be accurately assessed prior to the delivery of the independent expert's opinion. In the event that the Company was required to pay the statutorily defined legal costs of Siemens this is likely to be around €12,000 (£8,350). The cost of the Company's legal representatives may amount to a further €20,000 (£14,150). This contingency was also the position at 30 September 2005

11. Share capital and reserves

	2006 £'000	2005 £'000
Share capital		
22,386,258 ordinary shares issued at £1		
(Authorised share capital 40,000,000 ordinary shares)	<u>22,386</u>	<u>22,386</u>

12. Revenue reserves

	2006 £'000	2005 £'000 (restated)
As previously reported at 1 October 2005 (2004)	1,679	586
Prior year adjustment		
-for implementation of FRS 17	(2,306)	(4,212)
-for implementation of FRS 21	<u>391</u>	<u>-</u>
Restated opening revenue reserves at 1 October	(236)	(3,626)
Retained (loss)/profit for the period	(187)	448
Actuarial gain for the period	559	2,942
Dividends paid	(391)	-
As at 31 March (2005 30 September)	<u>(255)</u>	<u>(236)</u>

13. Reconciliation of movement in shareholders' funds

	2006 £'000	2005 £'000
Shareholder funds at 1 October	22,150	18,760
(Loss)/profit attributable to the shareholders	(187)	448
Dividend declared and paid to shareholders during year	(391)	-
Actuarial gain	<u>559</u>	<u>2,942</u>
Net increase/ (decrease) in shareholder funds	(18)	3,390
Shareholder funds at 31 March (2005 30 September)	<u>22,131</u>	<u>22,150</u>

Shareholders' funds as at 1 October 2005 were originally £24,065,000 before deducting prior year adjustment of £1,916,000 (shareholders' funds at 1 October 2004 were originally £22,972,000 before deducting £4,212,000). See Note 12.

Notes to the financial statements - continued

14. Controlling party

The Company is wholly owned by the States of Guernsey

15. Reconciliation of operating (loss)/profit to net cash inflow from operating activities

	2006 £'000	2005 £'000
Operating (loss)/profit	(520)	178
Depreciation charges	385	813
Net pension scheme service costs	265	532
Loss/(profit) on disposal of fixed assets	2	(10)
Decrease in stock	15	11
(Increase)/decrease in debtors	(521)	190
Increase/(decrease) in creditors	3,938	(9,501)
Net cash inflow/(outflow) from operating activities	3,564	(7,787)

Reconciliation of net cash inflow/(outflow) to movement in net funds

	2006 £'000	2005 £'000
(Decrease)/increase in cash balances	3,282	(7,309)
Net funds at 1 October	9,282	16,591
Net funds at 31 March (2005: 30 September)	12,564	9,282

16. Capital commitments

The company had authorised capital expenditure at the end of the financial period amounting to £22,000. (2005 £nil)

Notes to the financial statements - continued

17. Pension Fund

Employees of the company, where they are eligible and have chosen to join, are members of the States of Guernsey Superannuation Scheme. This is a defined benefits pension scheme funded by contributions from both employer and employees at rates which are determined periodically on the basis of actuarial advice, and which are calculated to spread the expected costs of benefits payable to employees over the period of these employees' expected service lives. The assets of the scheme are held by the States of Guernsey and the liability to pay out any pension when it is realised lies also with the States. Under the scheme the employees are entitled to retirement benefits of 1/80th of final salary for each year as member of scheme on attainment of a retirement age of 60. Additionally a lump-sum payment is paid based on 3/80th of final salary for each year of employment. The scheme is a funded scheme. The most recent actuarial valuation of scheme assets and the present value of the defined benefit obligation were carried out at 31 March 2006 by Mrs D Simon, Fellow of the Institute of Actuaries.

In respect of the twelve months ended 30 September 2005 the contribution rates were 9% and 6% for employer and employee contributions respectively.

The report by the actuaries on the valuation of the Superannuation Fund at 31 December 2004 indicated that a deficit existed. The employer's contribution rate to the Fund was increased with effect from January 2006 from 9% to 14%. However the employee contribution remained at 6%.

The total amount of superannuation contributions for the 6 months from 1 October 2005 to 31 March 2006 was £355,061 (2005: £549,061). As at 31 March 2006 the amount of contributions due but not paid to the Fund were £80,915 (2005: £48,783).

Summary of key financial assumptions

	2006	2005	2004
Discount rate	4.9%	4.9%	5.5%
Inflation	3.0%	2.9%	2.9%
Increases to deferred benefits during deferment	3.0%	3.0%	3.0%
Increases to pensions in payment	3.0%	3.0%	3.0%
Increases to salaries	4.5%	4.4%	4.4%

Notes to the financial statements - continued

17. Pension Fund - continued

The assumptions used by the actuary are the best estimates chosen from a range of possible actuarial assumptions which, due to the timescale covered, may not necessarily be borne out in practice.

The tables below set out a summary of the estimated market value of the assets as at 31 March 2006 and September 2005 together with the expected return on assets.

Category	Market value at 31 March 2006		Expected return on Assets
	£'000	%	% pa
Equities	16,199	79.7	8.00
Bonds	3,790	18.7	4.50
Cash and net current assets	332	1.6	4.50
Total	20,321	100	7.30

Category	Market value at 30 September 2005		Expected return on Assets
	£'000	%	% pa
Equities	14,066	78.4	7.3
Bonds	3,611	20.1	4.5
Cash and net current assets	265	1.5	4.5
Total	17,941	100	6.7

Category	Market value at 30 September 2004		Expected return on Assets
	£'000	%	% pa
Equities	11,312	76.5	7.8
Bonds	3,132	21.2	4.9
Cash and net current assets	334	2.3	4.5
Total	14,778	100	7.1

Notes to the financial statements - continued

17. Pension Fund - continued

The fair value of the schemes assets, which are not intended to be realised in the short term and may be subject to significant change before they are realised and the present value of the scheme's liabilities, which are derived from cash flow projections over long periods and thus inherently uncertain, were:

	2006 £'000	2005 £'000	2004 £'000
Value of the scheme assets	20,321	17,941	14,778
Present value of the scheme liabilities	<u>(22,814)</u>	<u>(20,823)</u>	<u>(20,043)</u>
Resulting deficit	(2,492)	(2,882)	(5,265)
Related deferred tax asset	498	576	-
	<u><u>(1,994)</u></u>	<u><u>(2,306)</u></u>	<u><u>(5,265)</u></u>

Analysis of the amount charged to operating profit

	2006 £'000	2005 £'000
Current service cost	588	1,081
Past service cost	-	-
Contributions	(323)	(549)
Total operating charge	<u><u>265</u></u>	<u><u>532</u></u>

Analysis of the amount credited to other finance income

	2006 £'000	2005 £'000
Expected return on pension scheme assets	598	1,068
Interest on pension scheme liabilities	(503)	(1,095)
Net return	<u><u>96</u></u>	<u><u>(27)</u></u>

Notes to the financial statements - continued

17. Pension Fund - continued

Analysis of the amount recognised in the statement of total recognised gains and losses

	2006 £'000	2005 £'000
Actual return less expected return on pension scheme assets	1,346	1,511
Experience gains and loss arising on the scheme liabilities	(538)	3,384
Changes in assumptions underlying the present value of the scheme liabilities	(248)	(1,953)
Actuarial gain recognised in the STRGL	<u>559</u>	<u>2,942</u>

Movement in deficit during the year

	2006 £'000	2005 £'000
Deficit in scheme at beginning of the year	(2,882)	(5,265)
Movement in year:		
Current service cost	(588)	(1,081)
Contributions	323	549
Past service costs	-	-
Other finance income	96	(27)
Actuarial gain/loss	559	2,942
Deficit in scheme at end of the year	<u>(2,492)</u>	<u>(2,882)</u>

Notes to the financial statements - continued

17. Pension Fund - continued

History of experience gains and losses

	2006	2005	2004	2003
Difference between the actual and expected return on scheme assets:				
Amount (£'000)	1,346	1,511	97	1,234
Percentage of scheme assets	7 %	8 %	1 %	9 %

Experience gains and losses on scheme liabilities:

Amount (£'000)	(538)	3,384	465	(2,375)
Percentage of the present value of the scheme liabilities	(2)%	17 %	2 %	(13)%

Total amount recognised in statement of total recognised gains and losses:

Amount (£'000)	559	2,942	563	(3,053)
Percentage of the present value of the scheme liabilities	2 %	15 %	3 %	(17)%

Notes to the financial statements - continued

18. Related party transactions

R A Perrot, a director of the Company, is also a partner in Ozannes, a local law firm. Guernsey Post received legal services on a number of issues throughout the year transacted on an arm's length basis. The charges incurred by the company payable to Ozannes during the year ended 31 March 2006 were £1,356 (2005: £76,799).

During the financial period ending 31 March 2006 there have been no transactions with Postal & Logistics Consulting Worldwide Limited (PLCWW). However in the year ended 30th September 2005 D T Roberts and J Domican, both being directors of the Company, had a controlling influence, as defined by FRS 8, in PLCWW although D T Roberts' controlling influence ceased from 2 September 2005. The charges incurred by the Company payable to PLCWW during year ended 30th September 2005 were £15,325.

Through the normal course of its business activity the Company both purchases and provides services to its shareholder or entities under the controlling influence of the shareholder body. These entities include States Trading Companies, companies whose equity is wholly owned by the States, States departments and Boards operated by the States. All such transactions have been on an arm's length basis. The total value of the sales for the year ended 30 September 2006 amount to less than 2% of total turnover (2005: 2%). The total value of purchases for the year amounted to 2.3% of total expenses (2005: 2.6%).

The States also provides, through its treasury department, management of the Company's liquid funds in excess of short term needs. At 31 March 2006 the balance held was £8,413,536 (30 September 2005: £8,413,536).

APPENDIX III

HOME DEPARTMENT

BAILIWICK OF GUERNSEY DATA PROTECTION OFFICE –

DRAFT CODE OF PRACTICE AND EXPLANATORY GUIDE –
DISCLOSURE OF CRIMINAL CONVICTIONS
IN CONNECTION WITH EMPLOYMENT



CODE OF PRACTICE AND EXPLANATORY GUIDE

DISCLOSURE OF CRIMINAL CONVICTIONS

IN CONNECTION WITH EMPLOYMENT

INTRODUCTION

This is a Code of Practice issued by the Data Protection Commissioner in accordance with his powers under Section 51 (3) of the Data Protection (Bailiwick of Guernsey) Law, 2001 ("the Law"). It is designed to provide an interpretation of the public interest exemption in Section 56(3)(b) of the Law and is aimed at anyone who is involved in the disclosure or receipt of information concerning someone's previous criminal record, **in connection with employment**, including:-

- individuals (e.g. an applicant for a job or an employee),
- employers, prospective employers, States Departments, regulatory and licensing bodies, or voluntary organisations,
- those involved in obtaining the criminal record (e.g. police officers and civilian police employees).

The Code of Practice does **not** cover the disclosure of criminal records as part of the criminal justice system or in civil cases before the court.

This Code of Practice comprises three parts:-

- Part I** contains Guidance for individuals applying for Police Disclosures;
- Part II** sets out the Code of Practice for employers and other persons to whom such data are disclosed;
- Part III** sets out a Recommended Disclosure Policy to be followed by the Central Records Office of the Guernsey Police.

The standards and recommendations in this Code of Practice may in some cases go beyond those directly enforceable by the Law, but they represent the way in which the Commissioner will interpret the Law in response to circumstances that may lead to an Assessment of Processing under Section 42 of the Law.

In addition, the Data Protection Commissioner has the power to issue an Enforcement Notice under Section 40 of the Law where he considers that a breach of the Data Protection Principles has occurred. The Commissioner will take into account the extent to which the data controller has complied with this Code of Practice when determining whether or not there has been such a breach.

This Code of Practice will be reviewed on a regular basis to ensure that it remains up to date and the Commissioner is always prepared to receive representations from those who are affected by this Code as to ways in which it may be improved.



PART I

GUIDANCE FOR INDIVIDUALS

1. INTRODUCTION

Any employer or prospective employer will want to know something about their employees or those applying for employment. The amount of information that they need should be commensurate with the nature of the employment and in many cases a detailed knowledge of someone's previous conviction history may not be necessary.

The Data Protection Law gives individuals a number of rights in respect of the privacy of their information. In particular, information about someone's criminal record is considered to be sensitive personal data and cannot be processed unless certain stringent conditions are met.

Conditions for the lawful processing of sensitive personal data (Schedule 3 of the Data Protection Law)

- With the individual's [data subject] consent;
- As required by Law;
- To protect the vital interests of the individual or another;
- By a not-for-profit organisation for its members;
- Of data already put in public domain by the individual;
- For the administration of justice;
- For medical purposes;
- For equal opportunity monitoring;
- As specified by Order – (GSI 2002 No. 17) that covers broadly:
 - Prevention and detection of crime,
 - Prevention and detection of fraud or malpractice,
 - Journalism in the public interest,
 - Provision of counselling, advice or support,
 - Carrying on of insurance business,
 - Monitoring of equality of opportunity,
 - Limited research purposes,
 - Policing purposes.

The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 introduces new rules to provide for the rehabilitation of persons convicted of certain criminal offences. The general rule is that after a period of time has elapsed since a person's last conviction, and provided that another offence has not been committed, that conviction will be treated as 'spent'. Further detail in the form of typical questions and answers on the Rehabilitation of Offenders Law are provided in section 3.

In general, a spent conviction need not be disclosed when applying for employment and non-disclosure of a spent conviction cannot be used as grounds for dismissal.



Unauthorised disclosure of a spent conviction is a criminal offence under this Law.

Examples of Rehabilitation periods for particular sentences		
After the periods indicated, these offences may normally be treated as 'spent' and need not be disclosed. The periods and the age of a Juvenile relate to the date of the conviction in respect of which the sentence was imposed.		
Sentence	Rehabilitation Period	
	Adults	Juveniles (Under 18)
Imprisonment from 6-30 months	10 years	5 years
Imprisonment for up to six months	7 years	3 ½ years
Fine or similar sentence	5 years	2 ½ years
Probation, bind over or similar	One year or length of sentence if	

Under section 7 of the Data Protection Law an individual (data subject) is able to make a "subject access request" to obtain a copy of all the personal information held on them and in the case of Police files this information would include any spent convictions. Section 56 of that Law prohibits an employer from requiring an employee to make a subject access request in order to disclose the results to the employer as these might include spent convictions or other information that should not be disclosed under the Rehabilitation of Offenders Law.

However, the Rehabilitation of Offenders Law specifies circumstances in which disclosure of spent and unspent conviction information for certain types of employment or voluntary work is permitted and the Police Disclosure Service has been devised to enable such disclosures to be made lawfully to those persons who are entitled to request them.

2. POLICE DISCLOSURES

An individual may be requested to produce a Police Disclosure:

- by a prospective employer whilst applying for employment,
- by an employer (e.g. if an employee is changing job role),
- by an officer of a voluntary organisation in relation to voluntary work,
- by a States Committee in relation to employment or the issue of a Housing Licence, or
- by a regulatory body in relation to the issue of a licence to practice or to undertake certain categories of business activity.

A Police Disclosure may be one of three types:



a) a **Basic Disclosure**

will contain details only of unspent convictions held in police records or will state if there are no such convictions. Any employer may request a potential employee or an existing employee to provide a Basic Disclosure.

b) a **Standard Disclosure**

will contain details of spent and unspent convictions and any other matters such as cautions. It will also state if there are no such items on record.

An employer may only lawfully request a potential or existing employee to provide a Standard Disclosure in support of employment or work in relation to certain types of occupations and professions which are exempted by inclusion in Schedules 1-4 of the Ordinance from the normal requirements of the Rehabilitation of Offenders Law.

Examples of Occupations covered by Standard Disclosures

- Professions, such as medical, legal, accountancy, dental, veterinary, nursing, pharmacy, optical and teaching;
- Judicial and Crown Appointments;
- Appointments in the law enforcement and emergency services, and for those in charge of vulnerable adults or children;
- Members and employees of the Financial Services Commission;
- Applications for firearms, gambling or explosives licences, road service licences, nurseries and child minding services, residential and nursing homes;
- Applications for Housing Licences (in Guernsey) or Employment Permits (in Alderney or Sark);
- Employment in banking, financial services and senior finance posts in the Civil Service (relevant finance-related spent convictions only).

The Commencement, Exclusions and Exceptions Ordinance, 2006 includes further details of those professions, occupations and appointments that are covered by the exemptions mentioned above.

c) an **Enhanced Disclosure**

may contain non-conviction information such as intelligence held in police records or available to the police in addition to that comprising a Standard Disclosure. The disclosure of non-conviction information is outside the scope of the Rehabilitation of Offenders Law.

An Enhanced Disclosure is available only in respect of a restricted number of exempted occupations, mainly in relation to the regular caring for, training, supervising or being in sole charge of vulnerable adults or children.



These occupations will include certain judicial and crown appointments and specifically teachers and voluntary workers involved with young people and anyone involved in the care of vulnerable adults, such as the old, disabled, infirm or those with a mental disorder.



2. PROCEDURE FOR APPLYING FOR A POLICE DISCLOSURE

Basic Disclosure

An applicant for a Basic Disclosure should complete an application form, including the reason for the request and the name of the prospective employer, if appropriate.

The form should be taken by the applicant in person to the Police Station.

The application fee should be included together with suitable photographic evidence of identity, such as a Passport, National Identity card or photo-card driving licence **and** evidence of residence, such as a recent utility bill or credit card statement (with any irrelevant financial details blanked out if desired).

In the case of Basic Disclosures, no personal data will be disclosed directly to the prospective employer. The Disclosure should normally be provided within 4 weeks and would be posted to the applicant at an address specified in the application.

A proforma application for a Basic Disclosure is provided in the Appendix.

Standard or Enhanced Disclosure

Applicants requiring a Standard Disclosure or an Enhanced Disclosure should complete an authorisation form and return it to be countersigned by an authorised official from the requesting organisation.

Under normal circumstances, the organisation, not the applicant, should submit the form to the police.

The type of Disclosure will depend upon the nature of the work of the individual and the Disclosure should normally be provided within 4 weeks, but may take longer depending on the nature of the checks that need to be carried out.

In the case of Enhanced Disclosures, certain non-conviction information may be disclosed only to the requesting organisation if its disclosure to the applicant would be prejudicial to security, the prevention and detection of crime, or the personal privacy of others.



3. FREQUENTLY ASKED QUESTIONS AND ANSWERS ON THE REHABILITATION OF OFFENDERS LAW

This is intended to answer some of the most frequently asked questions about the Rehabilitation of Offenders Law and is general guidance only. It should not be regarded as a definitive interpretation of the Law, and anyone in any doubt should seek their own legal advice.

Is the Law in force yet?

The Law has been passed by the States and has been registered formally on the Island records. The Commencement Ordinance was passed by the States in April 2006 and specifies a commencement date of 1st July 2006.

What does the Law do?

The Law sets out to make life easier for many people in the Bailiwick who have been convicted of a criminal offence, and have since lived on the right side of the law. It applies to convictions in the UK or abroad, whether in civilian life or in the Services. The UK and Jersey have similar, but not identical arrangements.

Whom does it affect?

Anyone who has been convicted of a criminal offence, and received a sentence of less than 2½ years in prison will benefit from the Law, provided they have not been convicted again during a set period (the rehabilitation period). It also applies to formal police cautions for criminal offences, provided there has been nothing since.

How does it all work?

If someone stays clear of the criminal courts and is not convicted again during the period of his rehabilitation, he becomes what the Law calls 'a rehabilitated person', and his conviction becomes 'spent'. The rehabilitation period depends on the sentence for the original offence and runs from the date of conviction. The Law applies to convictions which took place before the Law came into force, as well as to those which happen after that date.

How long are the rehabilitation periods?

Some sentences carry fixed rehabilitation periods. The main ones are given in the table opposite.

Is the period any different for juvenile convictions or cautions?

Yes. If a person is under 18 when the sentence is imposed (in cases of imprisonment or fines only) the period of rehabilitation is halved. For example, if a



16 year old receives a fine, provided he keeps out of trouble, his conviction will become spent after 2½ years rather than 5 years.

Are there any sentences which cannot become spent?

If anyone is sentenced to more than 2½ years in prison, his conviction can never become spent. This applies to any sort of detention in prison, including that for young offenders. It is the sentence actually imposed by the court that counts, even if it is suspended, not the time actually spent in prison.

Rehabilitation Periods

Prison, youth detention or Borstal for over 6 months and less than 2½ years	10 years
Prison, youth detention or Borstal for less than 6 months	7 years
Fines, compensation orders	5 years
Any sentence with a time scale attached eg – Probation Orders, Conditional Discharge, Bind Overs, Attendance Centre Orders, Special Care Orders, Fit Person Orders, Supervision Orders	1 year or until the expiry of the time scale, whichever is the lesser
Absolute discharge, No Order, Police Caution	6 months from date of conviction /caution
Disqualification	Until the expiry of the disqualification

What happens if two or more sentences were given at the same time?

Provided that neither sentence is over 2½ years imprisonment, the relevant period is usually the longer of the two. So if a person is fined for a driving offence, and



also disqualified at the same time from driving for a period of say, 2 years, the relevant rehabilitation period will be 5 years (i.e. the one applicable for a fine).

What happens if a further offence is committed during the period of rehabilitation?

Generally, this will mean that neither conviction will become spent until the rehabilitation for both convictions is over. However, if the second conviction is so serious that it incurs a sentence of more than 2½ years in prison, then neither conviction will become spent. But if the second conviction is a one of a list of disciplinary offences committed by servicemen, the earlier offence will become spent at the time originally fixed, and the rehabilitation period for the second matter will run for its normal length.

What are the main effects of this Law?

It means that once a conviction becomes spent under the Law, the convicted person does not have to reveal it or admit its existence in most circumstances. *There are some exceptions*, but unless you are told that one of these applies and are asked for details of all your convictions, spent convictions need not be disclosed when filling in a form, or at an interview, for instance for a job. An employer cannot refuse to employ someone (or dismiss someone if they are already employed) just because he or she has a spent conviction unless one of the exceptions applies.

What are the exceptions?

The details of the exceptions are contained in the Commencement Ordinance which was approved by the States in April 2006. The main exceptions relate to working with children, the sick or the handicapped, work connected with the administration of justice (police, courts etc) and work in the financial services sector including employment with the Financial Services Commission. For these jobs the Law recognises that it is important for employers to have a full picture of a person's background, including spent convictions. However, the existence of a spent conviction does not prevent someone being employed in these jobs, particularly if the matter occurred a long time ago or is completely irrelevant.

What will happen to the original record of conviction?

Official records of spent convictions will continue to be kept. But the details will not be disclosed to others unless there is a good reason for doing so. In criminal proceedings or in any proceedings to do with children, spent convictions may still be mentioned. But in civil proceedings, the court will have to be satisfied that justice cannot be done without the disclosure of a spent conviction, otherwise it cannot be mentioned in court.



PART II

CODE OF PRACTICE FOR RECIPIENTS OF DISCLOSURES

This Code of Practice is concerned with the use of information contained in Police Disclosures issued by the Central Records Office (“the Office”) and which are intended to be provided to Recipients of Disclosures (“Recipients”).

This Code of Practice applies to all Recipients who have requested a Police Disclosure from an employee, potential employee or voluntary worker, including:

- employers,
- civil servants and public officials,
- members of voluntary organisations and
- regulatory and licensing bodies.

Further information in relation to this Code, and other matters relating to Recipients and others having an involvement with Disclosure information, is contained in the Explanatory Guide, which is annexed to this document.

CATEGORIES OF DISCLOSURE

A Police Disclosure may be one of three types:

- a) a **Basic Disclosure**
will contain details only of unspent convictions held in police records or will state if there are no such convictions. Any employer may request a potential employee to provide a Basic Disclosure.
- b) a **Standard Disclosure**
will contain details of spent and unspent convictions and any other matters such as cautions. It will also state if there are no such items on record.

An employer may only lawfully request a potential or existing employee to provide a Standard Disclosure in support of employment or work in relation to certain types of occupations and professions which are exempted by Ordinance from the normal requirements of the Rehabilitation of Offenders Law.

Only those employers who are registered with the Office may request a Standard or Enhanced Disclosure. Details of the registration process are included in the Explanatory Guide.

**Examples of Occupations covered by Standard Disclosures**

- Professions, such as medical, legal, accountancy, dental, veterinary, nursing, pharmacy, optical and teaching.;
- Judicial and Crown Appointments;
- Appointments in the law enforcement and emergency services, and for those in charge of vulnerable adults or children;
- Members and employees of the Financial Services Commission;
- Applications for firearms, gambling or explosives licences, road service licences, nurseries and child minding services, residential and nursing homes;
- Applications for Housing Licences (in Guernsey) or Employment Permits (in Alderney or Sark);
- Employment in banking and financial services (relevant finance-related spent convictions only).

The Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 (Commencement, Exclusions and Exceptions) Ordinance, 2006 includes further details of those professions, occupations and appointments that are covered by the exemptions mentioned above.

c) an **Enhanced Disclosure**

may contain non-conviction information held in police records or available to the police in addition to that comprising a Standard Disclosure. The disclosure of non-conviction information is outside the scope of the Rehabilitation of Offenders Law.

An Enhanced Disclosure is available only in respect of a restricted number of exempted occupations, mainly in relation to the regular caring for, training, supervising or being in sole charge of vulnerable adults or children.

These occupations will include specifically teachers and voluntary workers involved with young people and anyone involved in the care of vulnerable adults, such as the old, disabled, infirm or those with a mental disorder.



OBLIGATIONS UNDER THE CODE

These are as follows:

1. Fair use of Disclosure information

Recipients:

- shall observe guidance issued or supported by the Office and the Data Protection Commissioner on the use of Disclosure information – and, in particular,
- shall not unfairly discriminate against the person to whom the Disclosure information relates, on the basis of conviction or other details revealed about that person.

In the interest of the proper use of Disclosure information and for the reassurance of persons who are the subject of Disclosure information, Recipients shall:

- have a written policy on the recruitment of ex-offenders,
- provide a copy of that policy to all applicants for positions where a Disclosure will be requested.

In order that persons who are, or who may be, the subject of Disclosure information are made aware of the use of such information and be reassured, Recipients shall:

- ensure that application forms for positions where Disclosures will be requested contain a statement that a Disclosure will be requested in the event of a successful application, so that applicants are aware of the situation;
- include in application forms or accompanying material a statement to the effect that a criminal record will not necessarily be a bar to obtaining a position, in order to reassure applicants that Disclosure information will not be used unfairly;
- discuss any matters revealed in Disclosure information with the person seeking the position before making any decision to withdraw an offer of employment;
- make every subject of a Disclosure aware of the existence of this Code of Practice, and make a copy available on request; and
- make available to their staff guidance in relation to the employment and fair treatment of ex-offenders and to the Rehabilitation of Offenders Law.



2. Handling of Disclosure information

Recipients:

- shall have a written security policy covering the correct handling and safekeeping of Disclosure information;
- must ensure that Disclosure information is not passed to persons not authorised to receive it under section 11 of the Rehabilitation of Offenders Law;
- must ensure that Disclosures and the information they contain are available only to those who need to have access in the course of their duties;
- must securely store Disclosures and the information that they contain; and
- should retain neither Disclosures, nor a record of Disclosure information contained within them, for longer than is required for the particular purpose.

In general, this should be no later than six months -

after the date on which recruitment or other relevant decisions have been taken, or

after the date on which any dispute about the accuracy of the Disclosure information has been resolved.

This period should be exceeded only in very exceptional circumstances which justify retention for a longer period. An example might be in the case where a statutory licensing authority may be required to retain the basis upon which certain licensing decisions have been made.

3. Assurance

Recipients shall:

- comply with requests from the Data Protection Commissioner to undertake assurance checks as to the proper use and safekeeping of Disclosure information;
- report to the Office **or** the Data Protection Commissioner any suspected malpractice in relation to this Code of Practice or any suspected offences in relation to the misuse of Disclosures.

**FAILURE TO COMPLY WITH THE CODE OF PRACTICE**

The Office is empowered to refuse to issue a Disclosure if it believes that a Recipient has failed to comply with this Code of Practice.

The Data Protection Commissioner may issue an Enforcement Notice, where he is satisfied that a Recipient is not abiding by the Data Protection Principles and in coming to a decision he will take into account the extent to which the Recipient is compliant with this Code of Practice.

Non compliance with an Enforcement Notice is an offence under Section 47 of the Data Protection Law.

OFFENCES

Unauthorised disclosure of any personal data is a criminal offence under the Data Protection Law.

Unauthorised disclosure, publication or broadcast of spent convictions is an offence under the Rehabilitation of Offenders Law.



EXPLANATORY NOTE

INTRODUCTION

1. Purpose of this Guide

This guidance supplements the information in the Code of Practice published by the Data Protection Commissioner in accordance with his powers under Section 51 (3) of the Data Protection (Bailiwick of Guernsey) Law, 2001.

2. Background and types of certificates (“Disclosures”)

The Disclosure Section of the Guernsey Police Central Records Office (“the Office”) operates the Disclosure Service for the Bailiwick of Guernsey

The Office will issue three types of Disclosure:

- **Basic Disclosure (“BD”)**

These will be issued to individuals on request, subject to confirmation of identity.

A BD will contain details of convictions held in central police records which are not spent under the terms of the Rehabilitation of Offenders Law or will state if there are no such convictions.

Any employer may lawfully request a potential or existing employee to supply him with a BD.

- **Standard Disclosure (“SD”)**

These will be available in respect of certain positions and professions which are specifically excluded by Ordinance from certain provisions of the Rehabilitation of Offenders Law.

An SD will contain details of all convictions (including those which are not regarded as spent under the Rehabilitation of Offenders Law), as well as cautions reprimands and warnings, recorded by the police centrally. It will also indicate if there are no such matters on record.

An SD issued in relation to work or a licence in the financial services sector will normally only include relevant spent convictions, i.e. those that are related to financial crimes, perjury or taxation.

- **Enhanced Disclosure (“ED”)**

The disclosure of non-conviction information is outside the scope of the Rehabilitation of Offenders Law, which is concerned only with individuals who have been convicted and received a sentence.

An ED will be available principally in respect of occupations and positions involved in regularly caring for, training, supervising or being in sole charge of children (i.e. individuals aged under 18), or of vulnerable adults.



An ED will contain the same details as an SD. It may also contain non-conviction information, which the Office considers may be relevant in connection with the matter in question.

If an individual is applying for a position working with children or vulnerable adults, the ED will **not necessarily** reveal whether the individual is included on lists of those considered unsuitable to work with such persons. Employers should make their own checks if they have access to such lists in relation to working with children and vulnerable persons.

Application for a BD is made by the individual who is the subject of the check, often at the request of their employer or prospective employer. However, there is in general no legal obligation on any person to apply for a criminal record check.

Application for an SD or ED is normally made only by an employer, or other recipients, such as a licensing authority or voluntary organisation **having first obtained the consent of the applicant**.

3. Good Recruitment Practice

The impact of the Rehabilitation of Offenders legislation widens the availability of criminal record information. It is crucially important that people who have been convicted are treated fairly and are given every opportunity to establish their suitability for positions.

The existence of the Disclosure Service should not be regarded as a substitute for any of the full range of existing pre-appointment checks, including taking up references and enquiring into the person's previous employment history.

Disclosures should be seen as complementary to existing recruitment practice and should be sought as late as possible in the recruitment process and normally only after a candidate has been provided with a provisional offer of employment or of a voluntary position.

GENERAL PRINCIPLES AND REGISTRATION

1. Eligibility

Disclosures are designed to help employers make safer recruitment decisions. They are also available to persons exercising regulatory and licensing functions and to voluntary organisations which recruit unpaid volunteer workers.

All Recipients i.e.:

- Registered Persons (as to registration see below at paras. 3 and 4) ,
- those countersigning Disclosure applications on behalf of Registered Persons, and



- others receiving such information

must adhere to the Code of Practice.

If the Office believes that a Recipient has failed to comply with the Code of Practice, the Office may refuse to issue a Disclosure and may refer the matter to the Data Protection Commissioner.

2. Sensitivity of Disclosure Information

All information disclosed by the Office is sensitive personal information. The Data Protection Commissioner publishes guidance covering the use of sensitive personal data. This includes guidance to employers on how to make best use of the information contained within Disclosures to make sensible and fair decisions about the suitability of individuals for positions.

All Recipients must treat such information with care and responsibility. Such information may be particularly sensitive, and the arrangements made must fully recognise this.

3. The Register

Applications for Standard and Enhanced Disclosures must be countersigned by a person registered with the Office for this purpose. A person, in this context, includes a corporate body. Persons applying to be registered will undergo a check to assess their suitability to receive information from the Office.

4. Basic Criteria

A person will be registered if he/she applies in writing, provides such information as may be requested by the Office, pays the applicable fee and meets the requirements summarised below.

Registered Persons

A person applying for registration must be:

- a corporate body, or
- a person appointed to an office by virtue of any enactment, or
- an individual who employs others in the course of a business

Applicants must satisfy the Office that they have legitimate grounds for asking questions covered by the exemptions to the Rehabilitation of Offenders Law.

When and how to apply for registration

Applications for registration should be made in writing, in the format determined by the Office.

**Identity**

Each person applying for registration must provide such evidence of identity as may be requested by the Office.

5. Lead Countersignatory

Applicants for registration are required to nominate a Lead Countersignatory. The Lead Countersignatory will be required to countersign the initial application for registration.

The Lead Countersignatory should be a senior person within the organisation who has a measure of management responsibility for those making recruitment decisions. For example, a human resources director would be a suitable nominee although, clearly, many organisations may not have an obvious equivalent. The Lead Countersignatory will not necessarily be expected to countersign Disclosure applications with the frequency of other countersignatories.

The Lead Countersignatory will be the Office's principal point of contact on all matters connected with the registration and use of the Disclosure service. The exception is that results of individual Disclosure applications will be sent to the individual who countersigned the application.

A Lead Countersignatory must be assigned at all times. If a Lead Countersignatory leaves that position, a new Lead Countersignatory should be nominated as soon as possible.

A person who is the only Countersignatory in an organisation (including a person who employs others in the course of a business and who is seeking registration) may countersign his/her own application for registration. He/She should indicate that this is the case in the application.

6. Confidentiality

The details of registrations are confidential and are not made public.

7. Changes

Registered Persons shall inform the Office promptly of any material changes to the details of their registration. The Office will make any necessary amendments according to published service standards.

Registered Persons who consider that they are no longer likely to wish to countersign applications should notify the Office, so that they can be removed from the register.

DEALING WITH APPLICANTS



1. Identity of the applicant

It is standard good recruitment practice for employers to satisfy themselves of the identity of those applying for positions. This is especially sensible in relation to sensitive posts, such as those working with children or vulnerable adults, to which Standard Disclosures and Enhanced Disclosures apply. Such checks will also be very helpful in ensuring that identity is correctly established for the purposes of Disclosure. Although the Office will conduct its own identity checks, these are no substitute for thorough identity checks by employers. Application forms for Disclosures should indicate the checks undertaken.

There are no definite rules about the type of evidence that is acceptable, but at least one item of photographic evidence (e.g. a national identity card, current passport, or a current photo-card driving licence) would be desirable plus at least one item of address-related evidence (e.g. a utility bill, or a bank, credit card or mortgage statement containing the name and address of the applicant, but with any irrelevant financial information blanked out if desired). In the absence of photographic evidence, a full birth certificate issued at the time of birth will carry more weight than one issued more recently.

Checking the consistency of information provided by the applicant in his/her application for the position tends to lead to a greater level of confidence in his/her identity.

Where an applicant claims to have changed his/her name by deed poll or any other mechanism (e.g. marriage, adoption, or statutory declaration), the employer should see evidence of such a change.

Registered persons should encourage employers to seek documentary evidence, and to indicate on the application form the checks that have been made.

Disclosures themselves should not be accepted by prospective employers as proof of identity.

2. Overseas applicants

Employers seeking to make use of Disclosure information should consider carefully before deciding whether to request a Disclosure in respect of an applicant with a substantial record of overseas residence. Applicants falling into this category include Bailiwick residents, whether British nationals or otherwise, with recent periods of overseas residence. Also in this category are those with little or no previous residence in the British Isles.

It may be difficult to obtain satisfactory evidence of identity in respect of such applicants. It may also be of limited value to ask for a Disclosure in respect of a person with very substantial gaps in their British Isles residence, or of individuals with little or no previous residence in the British Isles. The Police National



Computer (PNC) contains a limited number of overseas convictions but these data are by no means comprehensive.

Employers are free to ask those with overseas residence to apply for the equivalent of a Disclosure, if available. It is possible that overseas recruitment agencies may be able to assist in the carrying out of such vetting.

However, a substantial period of overseas residence should not preclude employers from considering applicants with such backgrounds. Use of the Disclosure Service should only be part of the overall recruitment process. In these situations, as for all other appointments, employers should engage in a full range of pre-appointment checks, beyond simple reference to Disclosures.

3. Policy in relation to persons with a criminal record

It is essential that those who have been convicted of criminal offences are treated fairly. All employers should have available a written policy on the recruitment of people who have been convicted in the past.

4. Information for applicants

Each applicant for a position should be given a copy of the above mentioned policy on recruitment at the commencement of the recruitment process.

Wherever appropriate, a statement expressing a willingness to consider persons with a criminal record on their merits should be included on application forms.

Application forms, or other recruitment documentation, should also carry a statement that the provisionally selected applicant for a position will be asked to apply for a Disclosure.

Applicants should be made aware of the Code of Practice and the employer's commitment to it.

5. Guidance to staff

Staff involved in employment and other decisions using Disclosure information should receive guidance in the areas of the employment of persons who have been convicted in the past, the Rehabilitation of Offenders Law and statutory exemptions from the Law, the Data Protection Law and any Code of Practice issued by the Data Protection Commissioner.

CONSIDERATION OF CHECKS

1. Factors to take into account



Employers should take into account a number of factors before reaching a recruitment decision.

Employers should consider the following:

- whether the conviction or other matter revealed is relevant to the position in question,
- the seriousness of any offence or other matter revealed,
- the length of time since the offence or other matter occurred,
- whether the applicant has a pattern of offending behaviour or other related matters,
- whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters, and
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person..

Ultimately, it is the responsibility of the employer to decide whether to offer the applicant a position. However, recruiters should be fully aware of their duties stipulated in law or by regulatory bodies.

2. Validity

Disclosures carry no absolute guarantee of accuracy. Neither do they carry a pre-determined period of validity because a conviction or other matter could be recorded against the subject of the Disclosure at any time after it is issued. Employers are advised to make recruitment decisions as soon as possible after receiving their copies of Disclosures.

Where a prospective employee or volunteer disputes the information provided in a Disclosure, that dispute will need to be resolved before the employer can reach a recruitment decision. In the final analysis, if it should prove impossible to resolve matters by other means, a fingerprint check may be sought, via the Office, in order to determine whether the record in question relates to the applicant. The Office reserves the right to levy a supplementary charge for a fingerprint check.

Where information has been released by the police to an employer in a separate letter, that information must not be discussed with the applicant.

3. Handling Information

Security

Disclosure information must be kept securely, and only those entitled to see it in the course of their duties should have access.



Employers should have available a written security policy for the handling of Disclosure information. A specimen policy has been issued by the UK Criminal Records Bureau¹. In particular, employers should keep a written record of the names of those – whether in their organisation or outside – to whom Disclosure information has been revealed.

Storage

All Recipients must store Disclosures and other confidential documents issued by the Office in secure conditions. Documents should be kept in locked, non-portable storage containers. Keys or combinations for such storage units should not be freely available within an organisation and access must be restricted to named individuals. Wherever possible, access to rooms containing storage containers should be restricted to staff engaged in recruitment work.

Retention of Disclosure Information

Once a recruitment decision (or other relevant decision – e.g. for regulatory or licensing purposes) has been made, a Recipient must not retain a Disclosure, or any associated correspondence, for longer than is necessary for the particular purpose. In general, this should be for a maximum of 6 months. This period normally allows for any dispute about the accuracy of a Disclosure or a recruitment decision to be made and considered.

In the case of a dispute, Disclosure information may need to be retained for a longer period, but in general this should be for no longer than 6 months after resolution of the dispute.

In the case of certain licensing decisions, the application process and any subsequent appeal process may be quite protracted. In such circumstances it is in order for the disclosure to be retained for the duration of the decision-making process and until all legal processes are exhausted.

If, very exceptionally, it is considered necessary to retain Disclosure information for a longer period, the Data Protection Commissioner should be consulted. In dealing with such a case, the Commissioner will need to give full weight to the rights of the subject of such information under forthcoming Human Rights legislation as well as Data Protection legislation.

The usual conditions in respect of storage and access (as detailed above) should continue in place during this period.

Disclosures should be destroyed by suitably secure means, i.e. shredding, pulping or burning. They should not be kept in any insecure receptacle (e.g. a waste bin or confidential waste sack) whilst awaiting destruction.

¹ www.crb.gov.uk



No photocopy or other image of the Disclosure may be retained, nor must any copy or representation of the contents be made or kept. But it is advisable for Recipients to keep a record of the date of a Disclosure, the name of the subject, the type of Disclosure, the position in question, the unique number issued by the Office and the recruitment decision taken.

References in this section to Disclosures include relevant non-conviction information supplied by the police but not included on Disclosures.

ASSURANCE

1. Assurance checks

The Data Protection Commissioner has a statutory duty to ensure that sensitive personal data is processed responsibly and that the information is used in an appropriate manner. Accordingly, the Commissioner will monitor compliance with this Code by Recipients. Recipients should co-operate with the Commissioner in respect of any compliance enquiries and related matters.

In conducting assurance checks, the Commissioner will seek to confirm that Recipients are complying with the Code of Practice, identify any breaches and provide for remedial action. In particular, the Commissioner will require that the Office:

- identify those no longer eligible to ask questions covered by exemptions to the Rehabilitation of Offenders Law,
- ensure that requirements in respect of security and retention of Disclosures are being met,
- confirm that Registered Persons are seeking the appropriate level of Disclosure in respect of those to be recruited,

and that Recipients:

- ensure that information provided by the Office is being used fairly, and not unjustly to the detriment of persons with a criminal record, and
- adopt best practice in the use of Disclosure information.

2. Complaints and audits

Checks may be made following complaints from:

- members of the public
- any authority or organisation



- countersignatories, if one reports that the organisation of which he/she is a part, may be in breach of the Code of Practice or may be using information provided by the Office inappropriately.

Audits

The Data Protection Commissioner may conduct audits of Recipients in order to check compliance and to provide advice on good practice where that would be helpful.

The Commissioner will provide written reports of each audit to the audited organisation, with recommendations, where this would be helpful. The Commissioner may undertake further audits to check that any recommendations made as a result of prior audits have been implemented.

The Office, Registered Persons and other Recipients must co-operate with audits conducted by the Commissioner.



3. Lost Disclosures

If Disclosure information (or information contained within a Disclosure) is lost, the Recipient should inform the Office immediately. The Office will consider whether to issue a replacement, if this is requested.

OFFENCES

Where the Office has reason to believe that this Code of Practice has not being followed or a criminal offence may have been committed in respect of some aspect of Disclosure, it will consider passing details to the Law Officers or the criminal investigation team.

Unauthorised disclosure of any personal data is a criminal offence under the Data Protection Law.

Unauthorised disclosure, publication or broadcast of spent convictions is an offence under the Rehabilitation of Offenders Law.



PART III

RECOMMENDED DISCLOSURE POLICY

FOR THE CENTRAL RECORDS OFFICE

INTRODUCTION

The Police Central Records Office (“the Office”) holds criminal record information about individuals in the Bailiwick.

Although its prime purpose is to maintain records for policing purposes, the information held is also of interest to employers, States Departments, voluntary organisations and regulatory bodies who need to satisfy themselves as to the suitability of persons for particular professions, occupations or voluntary positions.

Someone’s criminal record is sensitive personal data and may only be disclosed with their explicit consent, when a clear legal obligation to do so exists or in other limited circumstances prescribed by law.

Since both enforced subject access and unauthorised disclosure may be offences under Data Protection legislation, it is of the utmost importance that clear procedures exist for the disclosure of criminal records.

DISCLOSURE POLICY

This Policy covers the disclosure of criminal records in a legitimate way taking into account both Data Protection and Rehabilitation of Offenders legislation.

The Office shall:

- have a written detailed procedure for the disclosure of criminal records;
- have a written policy on weeding records, in compliance with the Rehabilitation of Offenders Law;
- have a written policy covering the security of criminal records;
- ensure that all staff involved with Disclosures comply with the policies and procedures.

SUBJECT ACCESS REQUEST

Subject Access Requests should be accepted only from personal callers, who provide evidence of their identity. Such applications are made under the subject information provisions of the Data Protection Law and would include all the information known about the applicant that could be disclosed in accordance with



that Law. Exemptions from the disclosure of information only apply if it would prejudice a criminal investigation or the security of the Bailiwick.

Before the information is provided, the applicant must be advised that it **need not** be disclosed to an employer or prospective employer and be encouraged to apply for a Basic Disclosure, if the need to provide that document to an employer appears to be the reason for the application.

The information should be disclosed **only** to the individual concerned, being sent by post to the address indicated on the application form.

BASIC DISCLOSURES

Applications for a Basic Disclosure should be normally made in person by the individual who is the subject of the disclosure.

Applications may only be processed if the appropriate form has been completed and the identity of the individual has been confirmed.

Applications should only be accepted from individuals resident in the Bailiwick or intending to take up residence in the Bailiwick. Exceptionally, where an application for a Disclosure is made by a third party, such as an employer or a public body, irrefutable evidence of the informed consent of the individual should be provided.

STANDARD AND ENHANCED DISCLOSURES

Applications for Standard or Enhanced Disclosures would normally only be accepted from Registered Persons.

Normally, a copy of the disclosure information would be supplied both to the requesting organisation and to the individual.

In the case of some Standard Disclosures and Enhanced Disclosures it may be necessary to disclose certain information only to the employer, prospective employer or requesting authority if there are concerns that disclosure to the individual would compromise the security of the Bailiwick, the prevention and detection of crime or the personal privacy of a third party.

Any decision to disclose to the requesting authority in this way should be on a case by case basis, on the authority of the Chief Officer and be documented.



RETENTION OF REQUESTS FOR DISCLOSURES

Records of all applications for Disclosures should be retained for a period of two years in order to deal with any queries or complaints.

REGISTERED PERSONS

The Office should maintain a list of Registered Persons, i.e. those persons who are authorised to apply for Standard or Enhanced Disclosures.

The Office should ensure that Registered Persons are aware of this Code of Practice.

The Office should report to the Data Protection Commissioner any instances where it is felt that an assurance check or audit needs to be undertaken on a Registered Person.

If the Office considers that any Registered Person is not complying with the Code, future requests for Full or Enhanced Disclosures should be declined and the Data Protection Commissioner advised.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 27TH DAY OF SEPTEMBER, 2006

The States resolved as follows concerning Billet d'État No. XVI
dated 8th September, 2006

INHERITANCE LAW REVIEW COMMITTEE

SUPPLEMENTARY REPORT

I.- After consideration of the Report dated 15th August, 2006, of the Inheritance Law Review Committee:-

1. That the legislation to reform the law of inheritance, the preparation of which was directed by the States on 24th February, 2005, shall be extended to include the issues set out in Section C of that Report.
- 2 To approve the Projet de Loi entitled "The Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for her Royal Sanction thereto.
- 3 (1) To note the Inheritance Law Review Committee's indication of its future workload as set out in Section D of that Report.
(2) To add the following item to the mandate of the Inheritance Law Review Committee
"(v) the use of trusts, whether testamentary or *inter vivos*, for the purpose of estate protection and planning, and, in particular, whether the discrimination against Guernsey rules of forced heirship in Section 11A of the Trusts (Guernsey) Law, 1989, as amended, should be retained".

PROJET DE LOI

entitled

**THE ANIMAL WELFARE (ENABLING PROVISIONS)
(GUERNSEY) LAW, 2006**

II.- To approve the Projet de Loi entitled "The Animal Welfare (Enabling Provisions) (Guernsey) Law, 2006" 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 POLICE PROPERTY AND FORFEITURE (BAILIWICK OF GUERNSEY) LAW, 2006

III.- To approve the Projet de Loi entitled "The Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006" 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 ROAD TRAFFIC (DRINK DRIVING) (GUERNSEY) (AMENDMENT) LAW, 2006

IV.- To approve the Projet de Loi entitled "The Road Traffic (Drink Driving) (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 AVIAN INFLUENZA (PRECAUTIONARY MEASURES) AND MISCELLANEOUS PROVISIONS (AMENDMENT) ORDINANCE, 2006

V.- To approve the draft Ordinance entitled "The Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006" and to direct that the same shall have effect as an Ordinance of the States.

THE BAR (AMENDMENT) (No. 2) ORDINANCE, 2006

VI.- To approve the draft Ordinance entitled "The Bar (Amendment) (No. 2) Ordinance, 2006" and to direct that the same shall have effect as an Ordinance of the States.

THE DRUG TRAFFICKING (DESIGNATED COUNTRIES AND TERRITORIES) (AMENDMENT) ORDINANCE, 2006

VII.- To approve the draft Ordinance entitled "The Drug Trafficking (Designated Countries and Territories) (Amendment) Ordinance, 2006" and to direct that the same shall have effect as an Ordinance of the States.

**THE INCOME TAX (EXEMPT BODIES)
(GUERNSEY) (AMENDMENT) ORDINANCE, 2006**

VIII.- To approve the draft Ordinance entitled “The Income Tax (Exempt Bodies) (Guernsey) (Amendment) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE MACHINERY OF GOVERNMENT (TRANSFER OF FUNCTIONS)
(GUERNSEY) (No. 2) ORDINANCE, 2006**

IX.- To approve the draft Ordinance entitled “The Machinery of Government (Transfer of Functions) (Guernsey) (No. 2) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

THE TRADE MARKS (BAILIWICK OF GUERNSEY) ORDINANCE, 2006

X.- To approve the draft Ordinance entitled “The Trade Marks (Bailiwick of Guernsey) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

PROJET DE LOI

entitled

**THE FINANCIAL SERVICES LEGISLATION
(BAILIWICK OF GUERNSEY) (AMENDMENT) LAW, 2006**

XI.- 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.

SCRUTINY COMMITTEE

NEW MEMBER

XII.- To elect Deputy D Lewis as a member of the Scrutiny Committee to complete the unexpired portion of the term of office of Deputy B J Gabriel, who has resigned as a

member of that Committee, namely to serve until May 2008 in accordance with Rule 7 of the Constitution and Operation of States Departments and Committees.

HOME DEPARTMENT

DEFINITION OF “AGENT” IN PREVENTION OF CORRUPTION LAW

XIII.- After consideration of the Report dated 17th July, 2006, of the Home Department:-

1. To approve the Home Department's proposals to draft an appropriate Ordinance under the provisions of the Prevention of Corruption (Bailiwick of Guernsey) Law, 2003 as set out in Her Majesty's Procureur's letter.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOME DEPARTMENT

DATA PROTECTION

XIV.- After consideration of the Report dated 25th July, 2006, of the Home Department:-

1. To approve the Department's proposals for amending the data protection legislation, as detailed in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

PUBLIC SERVICES DEPARTMENT

REVIEW OF GRANTS AND LOANS FOR CONNECTION TO THE PUBLIC FOUL SEWER

XV.- After consideration of the Report dated 27th July, 2006, of the Public Services Department:-

1. To approve the phased suspension and limitation of financial assistance for connection to public foul sewer as set out in Sections 6.8 and 6.9 of that Report.
2. To rescind Resolutions 2, 6 and 7 on item 34 of Billet XIV, 1st October 1981 and substitute the following:

- (a) That financial assistance **may be** made by means of a grant not exceeding one third of the standard cost of connection and/or a loan, such that the total grant and loan shall not exceed the standard cost of connection; such loan to be for a maximum period of ten years at an interest rate of 2% per annum secured by a Bond against the property of the borrower, which loan may include the legal expenses of taking out the Bond;
 - (b) That the sum specified in Section 12 [2] (a) of the Sewerage [Guernsey] Law, 1974, shall be increased from £1,500 to £3,000;
 - (c) With reference to Section 12 [2] (b) of The Sewerage [Guernsey] Law, 1974, to confirm that loans for foul sewer connection fall within the Mandate of the Public Services Department;
3. To vote the Public Services Department a credit of £240,000 to cover the cost of foul sewer connection grants as set out in the report, such sum to be charged to its capital allocation.
4. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

ORDINANCE LAID BEFORE THE STATES

**THE MACHINERY OF GOVERNMENT (TRANSFER OF FUNCTIONS)
(GUERNSEY) ORDINANCE, 2006**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2006, made by the Legislation Select Committee on the 14th August, 2006, was laid before the States.

S. M. D. ROSS
HER MAJESTY'S DEPUTY GREFFIER

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 28TH DAY OF SEPTEMBER, 2006

(Meeting adjourned from 27th September 2006)

The States resolved as follows concerning Billet d'État No. XVI
dated 8th September, 2006

SOCIAL SECURITY DEPARTMENT

BENEFIT AND CONTRIBUTION RATES FOR 2007

XVI.- After consideration of the Report dated 23rd August, 2006, of the Social Security Department:-

1. That, with effect from 1st January, 2007, the standard rates of social insurance benefits shall be increased to the rates set out in paragraph 19 of that Report.
2. That, with effect from 1st January, 2007, for employed and self-employed persons the upper weekly earnings limit, the upper monthly earnings limit and the annual upper earnings limit shall be £1,032, £4,472 and £53,664 respectively.
3. That, with effect from 1st January, 2007, for employed and self-employed persons the lower weekly earnings limit, the lower monthly earnings limit and the annual lower earnings limit shall be £100, £433.33 and £5,200 respectively.
4. That, with effect from 1st January, 2007, for non-employed persons the upper and lower annual income limits shall be £53,664 and £13,000 respectively.
5. That, with effect from 1st January, 2007, the States grants to the contributory funds in respect of contributions falling due from 1st January, 2007, shall be as follows:

Guernsey Insurance Fund	36% of contribution income
Guernsey Health Service Fund	27% of contribution income
Long-term Care Insurance Fund	0% of contribution income

6. That the Social Insurance (Guernsey) Law 1978, as amended, shall be further amended as described in paragraph 56 of that Report.
7. That, with effect from 1st January, 2007, the prescription charge per item of

pharmaceutical benefit shall be £2.60.

8. That, with effect from 1st January, 2007, the contribution (co-payment) required to be made by the claimant of care benefit, under the long-term care insurance scheme, shall be £147 per week.
9. That, with effect from 1st January, 2007, care benefit shall be a maximum of £602 per week for persons resident in a nursing home or the Guernsey Cheshire Home and a maximum of £322 per week for persons resident in a residential home.
10. That, with effect from 1st January, 2007, respite care benefit shall be a maximum of £749 per week for persons receiving respite care in a nursing home or the Guernsey Cheshire Home and a maximum of £469 per week for persons receiving respite care in a residential home.
11. That, with effect from 5th January, 2007, the supplementary benefit requirement rates shall be as set out in paragraph 92 of that Report.
12. That, with effect from 5th January, 2007, the weekly benefit limitations for supplementary benefit shall be:
 - (a) £297 for a person living in the community;
 - (b) £410 for a person who is residing in a residential home; and
 - (c) £589 for a person who is residing as a patient in a hospital, nursing home or the Guernsey Cheshire Home.
13. That, with effect from 5th January, 2007, the amount of the personal allowance payable to persons in residential or nursing homes who are in receipt of supplementary benefit shall be £23 per week.
14. That a supplementary fuel allowance of £18.70 per week be paid to supplementary beneficiaries who are householders from 27 October 2006 to 20 April 2007.
15. That the rounding of supplementary benefit entitlements to the nearest 25 pence shall be abolished, with the result that benefit shall be paid in the amount calculated.
16. That, with effect from 1st January, 2007, family allowance shall be £13.20 per week.
17. That, with effect from 1st January, 2007, the rates of attendance allowance and invalid care allowance and the annual income limits shall be as set out in paragraph 106 of that Report
18. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

PUBLIC ACCOUNTS COMMITTEE

INDUSTRY SUPPORT SCHEMES IN GUERNSEY

XVII.- After consideration of the Report dated 28th July, 2006, of the Public Accounts Committee:-

1. To note the Report.
2. To note that the Public Accounts Committee will monitor and review the action taken by the Commerce and Employment Department in respect of their schemes' objectives and procedures and may report back to the States if appropriate.
3. To recommend that all Departments review the way in which they award schemes and grants to ensure that best value is achieved from States funds in accordance with the theories and procedures outlined in this report.
4. To note that the Public Accounts Committee will monitor and review such action taken by all Departments.

COMMERCE AND EMPLOYMENT DEPARTMENT

REVIEW OF INDUSTRY SUPPORT SCHEMES

XVIII.- After consideration of the Report dated 20th July, 2006, of the Commerce and Employment Department:-

1. To note the Commerce and Employment Department's intention to apply the principles detailed in paragraphs 10 and 11 of that Report to all existing and future incentive schemes.
2. That the policy basis for future schemes be agreed with the Policy Council and that the funding of such schemes be agreed with the Treasury and Resources Department as part of the budget process.
3. To approve the cessation of the Advisory Support Scheme, the Horticultural Interest Subsidy Scheme and the Market Development Scheme as described in paragraphs 17-20, 21-23 and 24-26 respectively of that Report.

HOUSE COMMITTEE

CODE OF CONDUCT FOR MEMBERS OF THE STATES OF DELIBERATION

XIX.- After consideration of the Report dated 28th July, 2006, of the House Committee:-

1. To adopt the Code of Conduct for Members of the States of Deliberation as set out in the brochure to Billet d'État No XVI of 2006, pursuant to Article 20F(1) of the Reform (Guernsey) Law, 1948, as amended.
2. To extend paragraph 9 of the States Resolution of 28th January, 2004 on Article IX of Billet d'État No I of 2004 to include members of the States Members' Conduct Panel.

HOUSE COMMITTEE

AMENDMENTS TO THE RULES OF PROCEDURE OF THE STATES OF DELIBERATION AND RULES RELATING TO THE CONSTITUTION AND OPERATION OF STATES DEPARTMENTS AND COMMITTEES

XX.- After consideration of the Report dated 28th July, 2006, of the house Committee:-

1. To amend the Rules of Procedure of the States of Deliberation with immediate effect as follows:
 - (1) in Rule 23:
 - (a) at the end of paragraph (2) add: "Current entries in the Register of Members' Interests shall also be published on the States website.";
 - (b) delete paragraphs (3), (4) and (5) and substitute therefor:

“(3) All Members shall, during the month of December, 2006 and subsequently within one month of being elected or re-elected as a Member, make and lodge with the Greffier a declaration of their financial interests.”;

“(4) All Members shall make and lodge with the Greffier new declarations of their financial interests within one month of any material change to their financial interests or the acquisition of a new financial interest.”;
 - (c) renumber paragraphs (6) and (7) as (5) and (6) respectively;

- (d) before the full-stop at the end of the paragraph currently numbered (7) add: “and shall be lodged with the Greffier in electronic format”;
 - (2) in Rule 6:
 - (a) in paragraph (2) after the words “furnish a copy of the reply” add “in electronic format” and after the words “Presiding Officer” add “and the Greffier”;
 - (b) in paragraph (4) delete all the words from “to be made available” and substitute therefor: “to be sent as soon as reasonably practicable in electronic format to every Member who has furnished the Greffier with an e-mail address or, when no such address has been furnished, by such other means as shall be determined by the Greffier.”;
2. To amend the Rules relating to the Constitution and Operation of States Departments and Committees with immediate effect, as follows:

delete Rule 17(1) and substitute therefor:

“A Chairman who shall be the Chief Minister

The Minister of the Home Department (or in the absence of the said Minister another Minister chosen by the Chief Minister)

One other member of the Policy Council chosen by the Chief Minister having regard to the nature of the emergency, drawn from a Panel of five Ministers appointed in that regard by the Policy Council

(In the foregoing reference to “Chief Minister” includes, in the Chief Minister’s absence, the Deputy Chief Minister and, in the absence of both, the Senior Panel Member or Minister of the Home Department, if he is senior to any Panel Member.)”.

HOUSE COMMITTEE

SIMULTANEOUS ELECTRONIC VOTING IN THE STATES OF DELIBERATION

XXI.- After consideration of the Report dated 28th July, 2006, of the House Committee:-

That a system for simultaneous electronic voting NOT be introduced in the States of Deliberation at this time.

S. M. D. ROSS
HER MAJESTY’S DEPUTY GREFFIER

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 29TH DAY OF SEPTEMBER, 2006

(Meeting adjourned from 28th September 2006)

The States resolved as follows concerning Billet d'État No. XVI
dated 8th September, 2006

REQUÊTE

CIVIL PARTNERSHIPS

XXII.- After consideration of the Requête, dated 30th June, 2006, signed by Deputy P J Rofey and seven other Members of the States:-

To direct the Policy Council to initiate an investigation into the desirability of the enactment of legislation –

- (a) enabling people to enter into legally recognised and binding civil partnerships in Guernsey;
- (b) addressing all issues that might be associated with, or arise out of, the creation of such partnerships; and
- (c) enabling the recognition for the purposes of Guernsey law of similar civil partnership arrangements entered into under the laws of other jurisdictions.

STATUTORY INSTRUMENT LAID BEFORE THE STATES

THE HUMAN RIGHTS (AMENDMENT) ORDER, 2006

In pursuance of Section 16(1)(c) of the Human Rights (Bailiwick of Guernsey) Law, 2000, as amended, the Human Rights (Amendment) Order, 2006, made by the Policy Council on 5th June, 2006, by the Policy and Finance Committee of the States of Alderney on 22nd June, 2006 and by the General Purposes and Finance Committee of the Chief Pleas of Sark on 22nd June, 2006, was laid before the States.

S. M. D. ROSS
HER MAJESTY'S DEPUTY GREFFIER