



BILLET D'ÉTAT

WEDNESDAY, 31st OCTOBER, 2007

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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 **31st OCTOBER, 2007**, 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
12 October 2007

HOUSE COMMITTEE

REDUCTION OF VOTING AGE

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

3rd September 2007

Dear Sir

Executive Summary

This report proposes that the minimum age for voting at elections of Peoples Deputies and parochial officials be reduced from 18 years to 16 years.

Report

1. The age at which a person may vote at elections of Peoples Deputies and parochial officials has been 18 years since 1972, prior to which it was 20 years. The House Committee believes that the States should be given the opportunity of considering a reduction in the voting age from 18 years to 16 years before next year's General Election, in the light of recent decisions taken in this regard in both the Isle of Man and Jersey.
2. The first legislature in the British Isles to reduce the voting age to 16 years was the Isle of Man in February 2006. The matter was brought before the House of Keys by way of an amendment to the Registration of Electors Bill. The proposer of the amendment acknowledged that "it may be only a few 16 and 17 year olds will want to vote" but nonetheless the amendment was approved with 19 votes in favour and 4 against. The decision to extend the franchise in the Isle of Man to 16 and 17 year olds was taken very close to the General Election – indeed it was after the annual canvass for the electoral roll had been completed. Nonetheless, of the approximately 2000 persons in that age group some 700 enrolled and of that number 57% subsequently voted in the election (the overall turnout was 64%).
3. The only other British jurisdiction to move to a minimum voting age of 16 years is Jersey. In that case the voting on a proposition lodged by an individual Member of the States was carried by 25 votes to 21. The report supporting the proposition summarises the reasons for agreeing to the proposition in the following terms:

“Participating in democracy is a good thing. It is positive, empowering, enabling and engaging; it is a communal right hard-won over many years. I’m sure we all care that democracy remains healthy. If we do, we must face the fact that already low levels of public interest in elections are falling and this can only weaken the credibility and strength of our democratic culture. This being the case, the issue we face today is not should we give 16 year olds the right to vote; it is we must give 16 year olds the right to vote. What have we to lose in asking young people to be more responsible and play an active part in the community in which they live?”

4. Other jurisdictions which have a minimum voting age of 16 years are Austria, Brazil, Cuba and Nicaragua; in Bosnia, Serbia and Montenegro 16 and 17 year olds may vote if employed. 17 year olds may vote in East Timor, Indonesia, North Korea, the Seychelles and Sudan. In a handful of countries the minimum voting age ranges from 19 to 25 but in the vast majority of countries the voting age is 18. The only sovereign state to have an upper age limit is the Holy See where cardinals must be under the age of 80 to vote in papal elections.
5. Insofar as the United Kingdom is concerned the matter remains under review. In December 2003 the then Lord Chancellor, Lord Falconer of Thoroton QC said: *“One might well be able to give teenagers the vote at 16 rather than 18. We need to have a debate about that. ... I think it is a very important issue. We expect more and more of people in relation to personal participation. We expect more and more in terms of social responsibility, in my view rightly, from people, particularly young people.”*
6. The U. K. Electoral Commission conducted a review regarding the minimum age for voting. The British Youth Council put forward the following reasons for supporting the “Votes at 16” campaign:
 - Equality of Expression: Not letting 16 and 17 year olds express their political views through the ballot box gives the impression to young people and to the rest of society that young people’s views are not valid and young people are not real citizens. This contributes to the disconnection that many young people feel from the political process and structures.
 - Consistency: Young people can leave home, leave school, enter work full time, pay taxes, join the armed forces and receive social security benefits at 16, and should be able to vote.
 - Citizenship Education: With the introduction into the national curriculum of citizenship education from the ages of 5-16, at 16 a person has the ability to make an informed choice in an election. Yet 16 and 17 year olds are currently denied the right to use this knowledge.

- Moral Rights: The argument put forward for denying 16 and 17 year olds the vote are the same as those put forward [in previous generations] to deny women and working classes the right to vote – that they are too innocent of the world and that those who have the right know what was best for them. Those arguments are as wrong now as they were then.

7. The Electoral Commission reported in April 2004, recommending that the minimum age for all levels of voting in the U.K. should remain at 18 years. Arguments that influenced that decision were:

- International comparisons: Most countries have a minimum voting age of 18 and a pattern of harmonised voting and candidacy ages prevails across Europe and Commonwealth countries.
- Minimum age limits and maturity: There is no single definition of maturity. Other age-related rights vary widely and none are directly comparable with the right to vote or stand at elections.
- Research: Research carried out among the public on behalf of The Electoral Commission suggested strong support for keeping the current minimum voting age and young people themselves were divided on whether they were ready to be given voting rights at 16. However the majority of the 7,500 responses received by the Commission to its open public consultation were in favour of lowering the voting age to 16. The apparent discrepancy between the research figures and the open public consultation figures was addressed by the Electoral Commission in the following terms:

“Responses to an open public consultation are by definition self-selecting in nature and it is not unreasonable to suppose that the overall response could be skewed from being truly representative of general public opinion by a well-organised campaign on one side of the debate (particularly when, as it appeared in this case, there is no organised campaign to encourage responses from the other side of the debate). The Commission therefore also looked at the results of direct public opinion survey work.”.

- Voter turnout: Evidence suggests that lowering the voting age would decrease the overall percentage turnout in the short term due to the additional numbers of eligible but disengaged voters. Long term effects are also disputed.
- Further review: The Commission recommended a further review within five to seven years [2009-2011].

8. In a statement to the House of Commons on 3rd July 2007 the U. K. Prime Minister, the Right Hon. Gordon Brown, MP said: *“All of us in this House would acknowledge there are very many specific challenges we must meet on engaging young people and improving citizenship education. ... And while the voting age has been 18 since 1969, it is right, as part of this debate, to examine, and hear from young people themselves, whether lowering that age would increase participation in the political process.”*.
9. Figures provided by the Education Department indicate that there are between 1600 to 1800 young persons aged 16 or 17 years on the Island. The Law presently allows 17 year olds to register on the Electoral Roll although they cannot vote until they attain the age of 18 years. The Home Department, with which responsibility for the Electoral Roll rests, has, on two or three occasions, sent pre-registration forms to the College of Further Education and to those Island schools which have a sixth form. Of the estimated 850 17 year olds only 63 (approximately 7½%) have so far returned forms.
10. In presenting this matter to the States the House Committee finds itself in a dilemma. If the States are of a mind to allow 16 and 17 year olds to vote in the 2008 General Election an Order in Council will be required: consequently this Report must be considered not later than the October meeting of the States. The Committee believes that the young people involved should be consulted and to that end has issued a questionnaire which it hopes will be completed and returned by the end of September. Unfortunately the result of the consultation will not be known in time for inclusion in this Report. A copy of the questionnaire is appended. The Committee hopes to be able to circulate an analysis of the responses received on the same date (or as soon as possible thereafter) as the publication of the Billet d'État on the 12th October.
11. The Committee has had due regard to all the arguments both for and against reducing the voting age, set out in previous paragraphs. On balance it is persuaded by the view that if 16 and 17 year olds are deemed to have sufficient maturity and responsibility to enter into marriage, to serve in the armed forces and to pay taxes then those of them who wish to be able to vote should be enabled to do so.
12. It is accepted that not all young people will choose to register and vote but the Committee is firmly of the view that engaging with 16 and 17 year olds before many of them leave the Island to embark on higher education will engender an interest in Guernsey politics which may otherwise not take hold.
13. The cost of implementing this proposal is minimal and there are no budgetary implications.

Consultation

14. The Law Officers have been consulted with regard to these proposals and have not identified any legal or constitutional obstacles.
15. The Policy Council, with the concurrence of the Presiding Officer, has agreed that this States Report and the draft Projet de Loi are published in the same Billet d'État so that in the event of the States voting for legislative change then it may be possible that Royal Sanction can be obtained in time for 16 and 17 year olds to vote in the April 2008 General Election.

Recommendation

16. The House Committee, by a majority, recommends the States:
 1. to approve the proposal that the minimum age for voting be reduced from 18 years to 16 years;
 2. to approve the Projet de Loi entitled "The Reform (Guernsey) (Amendment) Law, 2007" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council, praying for Her Royal Sanction thereto.¹

Yours faithfully

B. M. Flouquet
Chairman

¹ It may assist Members of the States to have the precise wording of Article 3(4) of The Reform (Guernsey) Law, 1948, as amended which applies to the above recommendation.

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

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



States of Guernsey House Committee

VOTING AGE SURVEY

The States of Guernsey will shortly be considering proposals to reduce the age at which Islanders can vote from 18 to 16 years. This change has already been made in Jersey and the Isle of Man. To assist the States in reaching their decision you are asked to complete this brief survey and return it by the end of September. You are not required to give your name.

Please tick as appropriate.

1. How old will you be on 23 April 2008?

15	
16	
17	
18	

2. Are you:

In full time education?	
Working and attending College of FE?	
Working full time?	
Unemployed / Gap year?	

3. Should the voting age be reduced from 18 years to 16 years?

Yes	
No	

4. If the voting age is reduced, would you vote at the next election?

Certainly	
Possibly	
Probably not	
Definitely not	

5. If you are presently 17 or 18 years old, is your name already on the Electoral Roll?

Yes	
No	
Don't know	

Thanks for completing this survey.

For further information about Guernsey's political system visit www.gov.gg

(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 3rd September, 2007, of the House Committee, they are of the opinion:-

1. That the minimum age for voting be reduced from 18 years to 16 years.
2. To approve the Projet de Loi entitled “The Reform (Guernsey) (Amendment) Law, 2007” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council, praying for Her Royal Sanction thereto.

**THE TAXATION OF REAL PROPERTY (GUERNSEY AND ALDERNEY)
ORDINANCE 2007**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Ordinance entitled “The Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007” and to direct that the same shall have effect as an Ordinance of the States.

**THE TRAFFIC OFFENCES (FIXED PENALTIES) (AMENDMENT)
ORDINANCE, 2007**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Traffic Offences (Fixed Penalties) (Amendment) Ordinance, 2007” and to direct that the same shall have effect as an Ordinance of the States.

POLICY COUNCIL

THE RÔLE OF THE DOUZAINES AND THEIR RELATIONSHIP WITH THE STATES

Executive Summary

This report proposes the enactment of legislation which will provide that -

- the Guernsey Douzaine Council is established by law;
- the term of office of Douzeniers is reduced to four years;
- Parish officials may resign their office without recourse to the Royal Court.

It is further proposed that subject to further discussion with the Guernsey Douzaine Council, and subject to the enactment of legislation where necessary, the following functions will be transferred to the Douzaines:

- Utilisation of beaches (e.g. barbeque permits)
- Green lanes
- Temporary permissions for community events
- Tree register
- Control of flag days
- Naming of roads and clos.

The report states the intention of the Policy Council to create a Working Party to review the functions and powers of the Douzaines and to determine which, if any, of the functions should be retained by the parishes or transferred to the States or abandoned.

Report

Introduction

1. In his speech in the Machinery of Government debate held in October, 2003 the President of the Advisory and Finance Committee stated:

“There is one further, important issue that I wish to mention and that concerns the future role of the Island’s Douzaines. Members may recall that in the May policy letter, the Committee explained that the Policy Council would have responsibility for the relationship between the States and the parishes and this is reflected in the Policy Council’s mandate.

The Advisory and Finance Committee firmly believes that the Douzaines must continue to play an important role in Island life and remain involved in government issues that are of interest and relevance to them.

In this respect it will be incumbent upon the new departments to ensure that they consult with the Douzaines on relevant issues such as changes in policies or the delivery of services and look for opportunities where the Douzaines could become involved in the delivery of certain services on behalf of the States.

These are all areas where the Policy Council will be able to exert influence.

The underlying and most significant consideration is that the Douzaines must not be allowed to wither and become an irrelevance. They have played and must continue to play an important role in Island life, working in partnership with government in the best interests of their parishes and community as a whole.

Whilst the Douzaines must take their share of the responsibility for working towards this objective, the States must in turn be prepared to respond positively and constructively to those initiatives put forward by the Douzaines.”.

2. In May 2004 the Policy Council (“the Council”) appointed Deputy W. M. Bell and Deputy B. M. Flouquet to liaise with the Douzaines and the Island Douzaine Council [subsequently it was renamed the Guernsey Douzaine Council and throughout this report it is referred to as “the GDC”]. Following changes in the membership of the Council in March 2007 Deputy D. E. Lewis replaced Deputy Flouquet. This report has been prepared following consultation with the GDC, the Deans of the Douzaines and generally with all of the Douzaines.
3. It is clear that the loss of Douzaine Representatives was a bitter blow to the parishes. The presence of Douzaine Representatives in the States gave the Douzaines an indirect rôle in the determination of central policy and law making. One Douzenier considered that the abolition of Douzaine Representatives and Procureurs of the Poor and other erosion of functions amounted to “asset-stripping”. Although a minority of Douzeniers view the abolition of Douzaine Representatives as the death-knell of the parish system the Council believes that the majority of Douzeniers are keen to move forward with new areas of work which can be carried out more efficiently and effectively at parish level.
4. The Council believes strongly that there is continuing value in the Douzaines being part of the administration on the Island. However, they must have a meaningful rôle relative to the 21st century if they are to avoid becoming an

anachronism. The continued election of Douzeniers of a sufficient calibre will also be dependent upon the rôle given to the Douzaines. In the past Douzaine Representatives often went on to be People's Deputies or Conseillers and the Council is of the opinion that service as Douzenier will continue to be a useful training ground for aspirant People's Deputies.

GDC – statutory basis

5. Generally the GDC is now supported enthusiastically by the Douzaines although in its early days some Douzaines expressed reservations regarding the modus operandi of the GDC. From the States perspective we believe it to be a valuable addition to the parish system and are aware of at least two instances where States Departments were able to achieve satisfactory agreements with the parishes over specific issues by dealing with the GDC rather than with 10 individual parishes. There is ample evidence in the past to indicate that dealing individually with the 10 parishes makes it rarely possible to achieve any form of consensus or to identify solutions which satisfy the wishes of all, or at times even the majority of, the parishes.
6. The interposition of the GDC has been valuable and we believe that it should be established on a statutory basis. Having a statutory GDC does not mean that direct contact between the States and individual parishes will be precluded. The GDC will be used as an intermediary between the States and the parishes when matters of policy which concern all, or at least the majority, of parishes is under consideration. Matters relating to a specific parish will continue to be dealt with on a direct basis between the parish and States department or committee concerned.
7. Establishing the GDC by law was supported by seven of the Douzaines (St Pierre du Bois, the Forest and St Martin dissenting). Those dissenting preferred that it should remain a voluntary body not constituted by law. The GDC has produced a draft mandate and constitution, and it is upon that draft that appendix 1 is based. The GDC reported to the Council that *"the Douzaines have spent time and effort putting the new constitution in place ... and this process has produced a remarkable degree of agreement between the Douzaines"*. The Council considers that the Law Officers should provide legal advice to the GDC to the same extent that advice is currently provided to the individual parishes.
8. The legislation establishing the GDC should also make provision with regard to its funding and in this regard the GDC has advised as follows: *"At the moment the work [of the GDC] can be funded internally from monies provided by the Douzaines. However it is clear that your proposals ... are likely to substantially increase the workload [of the GDC] and hence administration costs would rise significantly. Douzaines feel that such additional funding should not be through parochial taxation, and we would welcome suggestions as to how the costs would be met. As for current expenditure, the Douzaines appear to be divided between maintaining the status quo and per capita funding."*

9. There was a considerable divergence of opinion on this matter in the parishes. St Peter Port, St Sampson, the Castel and the Forest favoured an equal division of costs; the Vale, St Pierre du Bois and St Martin favoured a per capita division; Torteval and St Andrew favoured States funding and St Saviour was undecided. At present the matter is somewhat academic as the costs are minimal - £80 per parish in 2007. However, as stated in the previous paragraph, the GDC foresees that administration costs may rise significantly. Should expenditure amount to say £6,000 per annum on a per capita basis this would cost St Peter Port £1,654 and Torteval £98 but on an equal division basis £600 equals 0.07 of a penny on the rates in St Peter Port and 2 pence on the rates in Torteval.
10. Clearly a per capita system is a fairer way of meeting the costs of the GDC and the Council therefore recommends that GDC costs should be on a per capita basis in accordance with the latest Island population census. The suggestion had been made that the costs should be borne by the States but we are unable to so recommend having regard to present budgetary constraints.

Constitution of Douzaines

11. The very title “douzaine” indicates a body of 12 persons and this is the number that serve, save in the parishes of the Vale and St. Peter Port. The Vale has 16 Douzeniers because an Act of the Royal Court of 10th December 1614 united the Douzaines of the two districts of the Vale, namely the Clos du Valle (apparently served by 12 Douzeniers) and the Vingtaine de l’Épine (apparently served by four) stating that the parish should be served by no more than a total of 12 Douzeniers, with four to be elected from the Vingtaine in place of four of those from the Clos, as vacancies through death arose. This appears not to have been implemented, and a united Douzaine of 16 has been the permanent result.
12. St. Peter Port has a Douzaine of 20 members. Writing in the late 17th century, the Governor, Viscount Hatton, described how the number of Douzeniers sometimes varied between the parishes, for the reason that members were often on voyages, and it was felt necessary to provide for absences. St Peter Port, with its vigorous merchant community, appears to have elected 20 Douzeniers for this reason, and thus the situation has remained. From 1845 to 1948 St Peter Port also had four Cantonal Douzaines, each with 12 members, in addition to the Central Douzaine. In our view there is now no practical reason why St. Peter Port and the Vale should have more than 12 Douzeniers and the Council originally recommended that the number of Douzeniers in those parishes be reduced accordingly. We note that the largest parish geographically, the Castel, has only 12 Douzeniers.
13. Unsurprisingly the St Peter Port and Vale Douzaines opposed this suggestion. Four parishes (the Castel, St Saviour, the Forest and St Martin) supported the suggestion whilst the view of the remaining four parishes (St Sampson, St Pierre du Bois, Torteval and St Andrew) was that this was a matter solely for the two

parishes concerned. In view of the clear opposition from the Vale and St Peter Port the Council is not pursuing this proposal.

14. Representations were made, both by the GDC and a number of Douzaines, that a six year term of office is too long. The Council agrees and supports the suggestion that the term be reduced to four years. Consideration has been given as to whether elections should continue on an annual basis (i.e. 3 Douzeniers retiring each year) or on a biennial basis (i.e. 6 Douzeniers retiring every second year) or on a quadrennial basis (i.e. all Douzeniers retiring every fourth year). Our conclusion is that annual elections should continue. As the number of Douzeniers is unlikely to be reduced in the Vale and St Peter Port those parishes would, each year, elect four and five Douzeniers respectively. This suggestion has the unanimous support of all the Douzaines and the Council therefore recommends that the Loi relative à la Réforme des États de Délibération of 1899 and the Reform (Guernsey) Law, 1948 as amended, be further amended to facilitate this.
15. Responsibility for such matters rests with the House Committee. That Committee has considered the issue and concurs with the recommendation that the term of office of Douzeniers be reduced from six years to four years.
16. With regard to the term of office of Constable, the current position is that they are elected for a three year term but, subject to certain conditions, may vacate office after serving for one or two years. The parishes were asked to consider whether the term of office of Constable should be increased to four years. The majority of parishes rejected this suggestion, it finding favour only with St Peter Port, the Castel and St Saviour. No proposal is therefore made in this regard.
17. At present a person wishing to be released from parochial office before completing the term has to obtain permission from the Royal Court to vacate the office. The reason for this is that under customary law a person can be compelled to serve in those offices. However such compulsion is unlikely to be held to be Human Rights compliant and it is therefore proposed that the Law be changed to permit an office holder to vacate the office by tendering his resignation in writing – in the case of a Douzenier to the Senior Constable and in the case of a Constable to the Dean of the Douzaine. The majority of the Douzaines concur with this recommendation (the Vale, the Castel, St Pierre du Bois and St Martin dissenting).

Practical issues

18. The following matters were identified as areas of responsibility which could be transferred to the Douzaines:
 - Utilisation of beaches (e.g. barbeque permits)
 - Green lanes

- Temporary permissions for community events (e.g. erection of banners, temporary signs, use of public address systems)
 - Tree register
 - Control of flag days
 - Naming of roads and clos
19. The Council believes that Departments and Committees of the States should, in appropriate circumstances, seek the assistance of the Douzaines in particular projects where local knowledge is important. An example of this is the Environment Department's intention to involve the Douzaines in its comprehensive review of the Island's road infrastructure.
 20. With regard to the areas of work detailed in paragraph 18, all the parishes were broadly supportive of the suggestion that they should assume responsibility for the functions. Exceptions were that St Sampson did not favour involvement in the management of the utilisation of beaches and neither St Peter Port nor St Andrew wished to have responsibility for maintaining a tree register.
 21. The GDC summarized the views of the parishes regarding these matters, as follows: *"... all the Douzaines agreed that there is some merit in taking on the functions you have listed, but the majority have concerns over the precise meaning of your proposals. For example, there are concerns as to whether you mean that Douzaines should take over the funding or control of maintenance of the green lanes or both: for the country parishes, who have more green lanes than others, this could be a substantial additional expense for their parishioners if the costs of maintenance were to be taken over, and most country parishes would not be happy to recommend this, whereas taking over control of the maintenance of green lanes still carried out by Public Works would be much easier to accept. As you will understand from this example, we must ask for clarification of such matters so that more detailed comments can be given to you. Therefore as a matter of principle the Douzaines will not accept any additional responsibilities previously carried out at the States expense without commensurate funding."*
 22. The final sentence of the previous paragraph is of fundamental importance and the GDC was right to raise the issue at this stage. However, as stated earlier, departments' budgets are presently subject to tight constraints and the Council foresees that this issue will not be resolved easily. Some of the areas of responsibility which it is suggested might be assumed by the parishes will, in any event, require the enactment of legislation transferring the function from the States to the parishes. The Council therefore recommends that the States be asked to agree in principle that the functions listed in paragraph 18 be transferred to the parishes subject in each case to wider consultation and a further report to the States setting out the precise functions to be transferred, the terms upon which the transfer is proposed, including any financial arrangements

and, where necessary, proposing the enactment of legislation.

23. In August 2003 H. M. Procureur wrote to the Advisory and Finance Committee (following earlier correspondence which he had exchanged with the Dean of the St. Peter Port Douzaine) stating that legislation should be enacted clarifying and defining the functions and powers of the Constables and Douzaines. It was suggested that a working party be established with the Advisory and Finance Committee, the Douzaines and Law Officers being represented thereon. H. M. Procureur suggested that the Working Party firstly needed to identify precisely the functions and powers and secondly needed to determine which, if any, of the functions should be retained by the parishes or transferred to the States or abandoned.
24. H. M. Procureur's suggestion has not been pursued to date. Both the Council and all the parishes agree that the time is now right to carry out such a review on the lines set out above. One issue which would clearly need to be addressed is whether the present Bornement system should continue or whether it should be abandoned.
25. The Council takes this opportunity of paying tribute to all the Island's Douzeniers and Constables for their continued loyal service to their parishes and for carrying out a variety of administrative functions. Without them, those functions would have to be carried out by the States. The Council believes that if the rôle of the Douzaines is to be enhanced there must be a formal link between it and the GDC. To this end one or more Ministers will continue to be specifically mandated to liaise with the GDC and the Douzaines.

Recommendation

The Policy Council recommends the States to agree:

1. that legislation be enacted to provide that the Guernsey Douzaine Council be constituted by law on the lines set out in appendix 1;
2. that the Loi relative à la Réforme des États de Délibération of 1899 and the Reform (Guernsey) Law, 1948, as amended be further amended to provide that the term of office of Douzeniers be reduced from six years to four years¹;

¹ It may assist Members of the States to have the precise wording of Article 3(4) of The Reform (Guernsey) Law, 1948, as amended which applies to the above recommendation.

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

(continued on next page)

3. that legislation be enacted to provide that Douzeniers, Constables and Parish Procureurs may resign without recourse to the Royal Court;
4. in principle that the functions set out in paragraph 18 of this Report be transferred to the Douzaines and to authorise the Policy Council and appropriate Departments of the States to enter into discussions (relating to finance, administration and generally) with the Guernsey Douzaine Council and other interested parties to that end and to note that further reports will be presented to the States following such discussions;
5. to note the Policy Council's intention to create a Working Party as set out in paragraphs 23 and 24 of this Report and that its mandate will include a review of the continued need or otherwise of bornements.

M W Torode
Chief Minister

24th September 2007

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

APPENDIX 1

GUERNSEY DOUZAINE COUNCIL

Objects

1. To discuss matters of mutual interest to the Island Douzaines, including the laws and practices applicable to the work of the Douzaines.
2. To promote the image, function and autonomy of the Douzaines and to secure a continuing and meaningful role for the Douzaines as a tangible benefit to the Island community.
3. To act as the channel of communication between the States and other bodies on matters of policy which concern all, or the majority of the Douzaines collectively.

Constitution

1. A Chairman and 10 representatives, one from each Douzaine.
2. Each Douzaine shall elect its representative and an alternate representative annually prior to the January meeting of the Council, such persons shall, subject to paragraph 4 below, hold office for the calendar year.
3. In the event that both the representative and alternate representative are absent, indisposed or otherwise able to attend a meeting, a Douzaine may appoint another member to attend in their place.
4. A Douzaine may terminate the office of its representative or alternate representative in which event it shall elect a new representative or alternate representative, as the case may be, to complete the unexpired term of office.
5. The Chairman shall be elected annually by the Council and shall be –

either a member of the Council,

or such other independent person as the Council shall deem to be experienced in Douzaine affairs.
6. If the Chairman is elected from within the Council the Douzaine whom he represents shall be entitled to elect a another representative in his place.
7. The Council shall elect a Vice-Chairman to act when the Chairman is absent, indisposed or otherwise able to attend a meeting.

Finance

The work of the Council shall be funded by each Douzaine on a per capita basis by reference to the most recent census of the population of the Island.

Power to make Rules

The Council may make rules from time to time in respect of the quorum and procedure applicable at meetings, voting and all other matters relating to its operation.

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

The States are asked to decide:-

IV.- Whether, after consideration of the Report dated 24th September, 2007, of the Policy Council, they are of the opinion:-

1. That legislation be enacted to provide that the Guernsey Douzaine Council be constituted by law on the lines set out in appendix 1 to that Report.
2. That the Loi relative à la Réforme des États de Délibération of 1899 and the Reform (Guernsey) Law, 1948, as amended be further amended to provide that the term of office of Douzeniers be reduced from six years to four years.
3. That legislation be enacted to provide that Douzeniers, Constables and Parish Procureurs may resign without recourse to the Royal Court.
4. That, in principle the functions set out in paragraph 18 of that Report be transferred to the Douzaines and to authorise the Policy Council and appropriate Departments of the States to enter into discussions (relating to finance, administration and generally) with the Guernsey Douzaine Council and other interested parties to that end and to note that further reports will be presented to the States following such discussions.
5. To note the Policy Council's intention to create a Working Party as set out in paragraphs 23 and 24 of that Report and that its mandate will include a review of the continued need or otherwise of bornements.
6. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

TREASURY & RESOURCES DEPARTMENT

THE INCOME TAX (GUERNSEY) (EMPLOYEES TAX INSTALMENT) REGULATIONS, 2007

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

11th September 2007

Dear Sir

1. **Executive Summary**

- 1.1. The above Regulations, if approved by the States, will allow the Administrator of Income Tax (“the Administrator”) to require employers to submit, in electronic format, information that they are required to submit under the provisions of the Employees Tax Instalment (“ETI”) Scheme.
- 1.2. The Regulations do include a provision that would allow the Administrator, where he considers it appropriate to do so (for example, where it would cause actual financial hardship for an employer to submit information in electronic format) to come to an alternative arrangement with that employer.

2. **Background**

- 2.1. The ETI Scheme places obligations on employers to deduct tax from emoluments paid to their employees, and to pay over that tax, and to provide information concerning the employees and their related emoluments, to the Administrator.
- 2.2. Section 81A (4) of the Income Tax (Guernsey) Law 1975, as amended (“the Law”) authorises the Department to make Regulations enabling the ETI Scheme to be implemented and enforced. However, section 81A (5) of the Law provides that Regulations are not to have effect until they are approved by Resolution of the States.
- 2.3. The purpose of this Report is to seek States’ approval to a change to the existing Regulations that the Department considers is desirable for the efficient administration of the income tax system.

3. **Detailed Proposals**

- 3.1. Under Regulation 10 of the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations 1979 (“the original Regulations”) every employer is required to keep, for each of his employees, a Tax Deduction Form (“TDF”), supplied to them by the Administrator, recording details of their employees’ wages/salary, contributions they have made to approved pension schemes, the tax code operated and the amount of tax deducted.

The employer is required to submit TDFs each quarter by the fifteenth of the month following the end of the quarter (i.e. for the first quarter by 15 April, for the second quarter by 15 July, for the third quarter by 15 October and for the fourth quarter by 15 January in the following year).

- 3.2. The proliferation of computers since the late 1970s, when the original Regulations date from, have made this particular Regulation somewhat outdated. Indeed, in practice, to take account of technological advances, the Administrator has, for a long time, accepted TDFs in an electronic format, so long as that format has been agreed with him, in advance, by the employer concerned.

Indeed, of the approximately 3,500 employers in the island, who are registered with the Income Tax Office under the ETI Scheme, only about 1,100 actually submit “official” TDFs. The remainder already make electronic returns in one form or another.

- 3.3. It is in the Administrator’s interest to encourage the submission of TDFs in an electronic format because the handling, processing and subsequent storage of that information within the Income Tax Office is much more straightforward than is the case for TDFs that are submitted in the, traditional, paper form.

Whereas the Regulations envisage all TDFs being submitted in paper form, it is actually those that are still submitted in paper form that cause the Administrator most resource implications.

- 3.4. The approximately 2,400 employers who already submit TDFs in electronic format do so for approximately 39,500 employees.

By contrast, the approximate 1,100 employers who submit paper TDFs do so for only approximately 4,800 employees, which can be analysed as follows:

Approximate number of employers

600 with 1 or 2 employees
200 with 3 or 4 employees
300 with 5 or more employees

- 3.5. If it was compulsory (except for exceptional cases) for employers to submit

TDFs in electronic format, there would be a saving of staff resources within the Income Tax Office of 16-24 man weeks per annum (which could then be more usefully diverted to areas of ETI Scheme compliance which, at present, have to be neglected in favour of processing TDFs). There would also be considerable savings in storage space requirements.

- 3.6. For those employers who do not already run computerised payroll systems, the Income Tax Office provides, free of charge, in conjunction with the Social Security Department, software in a CD format (known as "Returns Creator"). To operate Returns Creator an employer simply needs access to a personal computer.

4. **Conclusion**

- 4.1. The majority of the island's employers already submit, on behalf of the vast majority of the island's employees, TDFs in electronic format.

It would be in the interests of efficiency, within the Income Tax Office, if the remainder of the island's employers were also required to submit TDFs in an electronic format.

- 4.2. The Department recognises that there could be situations where the requirement to file TDFs electronically could cause a significant financial burden – for example, non-profit organisations such as churches, charities, clubs, etc, where there may be only 1 or 2 employees. If the organisation did, as a matter of fact, have access to a PC, however, the Administrator would expect the information to be submitted in an electronic format.
- 4.3. A copy of the Guernsey Statutory Instrument required to introduce these proposals, to be cited as The Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007, is attached. The opportunity has been taken to consolidate all of the ETI regulations that have been issued, and which are still in force, into one instrument. Whilst the consolidated Regulations will come into effect, generally from 1 January 2008, in order to allow adequate time for employers to adjust to the change in the requirement to submit TDFs electronically, that particular provision will not come into effect until 1 January 2009.

5. **Consultation**

- 5.1. In formulating its proposals, the Department has consulted with the following bodies, whose members would consist, substantially, of employers – Guernsey Chamber of Commerce, Confederation of Guernsey Industry, Guernsey Enterprise Agency and the Guernsey Growers' Association. Those bodies that responded were broadly in support of the Department's proposals (whilst emphasising that there should be protection for those who may be, actually, financially disadvantaged by a requirement to submit TDFs electronically).

6. **Recommendations**

6.1. The Department recommends the States to approve the Regulations as made.

Yours faithfully

L S Trott
Minister

GUERNSEY STATUTORY INSTRUMENT

2007 No. 19

**The Income Tax (Guernsey)
(Employees Tax Instalment Scheme) Regulations, 2007**

Made

11th September, 2007

Coming into operation

1st January, 2008

Laid before the States

, 2007

THE TREASURY AND RESOURCES DEPARTMENT, in exercise of the powers conferred upon it by section 81A(4) of the Income Tax (Guernsey) Law, 1975¹, as amended, hereby makes the following regulations:-

Issue of coding notices.

1. (1) The Administrator shall on or before the 31st October in each year, or as soon as may be thereafter, issue a coding notice relating to the following year of charge in respect of every employee who has made a return of income for the year of charge in which the coding notice is to be issued, or, where the Administrator has agreed to the deferment of such return, for the preceding year of charge.

(2) Where a coding notice has not been issued because the employee has failed to make a return of his income for the relevant year of charge, the

¹ Ordres en Conseil Vol. XXV, p.124; Vol. XXVI, pp. 146,200 and 292; Vol. XXVII, pp. 84, 118, 200, 333 and 565; Vol. XXVIII, pp. 184, 278, 353 and 409; Vol. XXIX, p.214; Vol. XXXI, pp. 406 and 473; Vol. XXXII, p. 307; No. IV of 1991; No. VI of 1992; No's IV and VIII of 1993; No. XXV of 1994; No's III and VII of 1995; No. V of 1996; No's IV and XXII of 1997; No. II of 1999; No. IV of 2000; No's. VI and XVII of 2001; No. VII of 2002; No's. IV, XVIII and XXVI of 2003; No's. XII and XVI of 2004; No's. V, VI and XVII of 2005; and No's. II and VII of 2006. Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII).

Administrator shall, as soon as may be after receiving the return of income in question, issue a coding notice in respect of that employee.

(3) Where an employee who was not employed in Guernsey in the year preceding a year of charge commences to be so employed, he shall on taking up his employment in Guernsey make a declaration to the Administrator, in such form as the Administrator may require, of the personal and other allowances to which he claims to be entitled under the Law, and, as soon as may be after receiving such declaration, the Administrator shall issue in respect of that employee a coding notice.

(4) The Administrator may -

- (a) upon application made to him by an employee, or
- (b) at any time, in his discretion,

issue a revised coding notice.

Form of coding notices.

2. (1) A coding notice shall consist of two parts, namely -

- (a) Part 1, and
- (b) Part 2.

(2) Part 1 of a coding notice shall specify -

- (a) the amount of any allowance, deduction or relief which the Administrator estimates the employee is entitled to claim,
- (b) the amount of any income from sources other than

employment which the Administrator estimates will be chargeable upon the employee,

- (c) an amount sufficient to collect such tax underpaid in respect of prior years of charge as the Administrator considers appropriate (provided that, where the amount of such underpaid tax exceeds £500, the consent of the employee shall be required),
- (d) a weekly coding number or a monthly coding number (or both such numbers) calculated by deducting from the amount specified under subparagraph (a) the amounts specified under subparagraphs (b) and (c) and dividing the amount remaining after such deduction -
 - (i) in the case of a weekly coding number, by 52, and
 - (ii) in the case of a monthly coding number, by 12,

provided that where the amount remaining after such deduction is less than zero, the code number shall be zero.

(3) Part 2 of a coding notice shall specify the weekly coding number or the monthly coding number (or both such numbers) calculated in accordance with paragraph (2).

Supplementary coding notices.

- 3. (1) Where an employee has more than one employer -
 - (a) he shall, at the request of the Administrator -
 - (i) select one of those employers to be his principal

employer, and

(ii) notify the Administrator in writing, within such period as the Administrator may specify in the request, of the name and address of the employer he has selected to be his principal employer, and

(b) he may request the Administrator by notice in writing to issue a supplementary coding notice in respect of his emoluments from employment by each employer, other than his principal employer and the Administrator shall, following receipt of such request and if he considers it appropriate having regard to the circumstances of the case, issue a supplementary coding notice.

(2) The Administrator may -

(a) upon application made to him by an employee, or

(b) at any time, in his discretion,

issue a revised supplementary coding notice.

Lodgement of coding with employee and employer.

4. The Administrator shall send -

(a) Part 1 of a coding notice to the employee in respect of whom it is issued, and

(b) Part 2 of the coding notice to the employer, employers or principal employer of that employee.

Deduction of tax by employer.

5. (1) Subject to regulation 8, on each pay day every employer shall-
- (a) from the emoluments of each employee in respect of whom the employer has received Part 2 of a coding notice for the relevant year of charge, deduct tax at the standard rate by reference to the net emoluments to be paid to the employee on that pay day, and
 - (b) from the emoluments of each employee in respect of whom the employer has not received Part 2 of a coding notice for the relevant year of charge, deduct tax at the standard rate by reference to the gross emoluments to be paid on that day.

- (2) For the purposes of paragraph (1) -

"net emoluments" means the gross emoluments to be paid on each pay day, less -

- (a) the amount of tax deductions allowable under section 8(3)(b) of the Law (which relates to the deductions allowable for contributions to approved pension schemes), and
- (b) the amount indicated by the relevant code number, and

"standard rate" means the standard rate of income tax prescribed by Resolution of the States in relation to individuals in respect of the relevant year of charge under section 5(2) of the Law.

- (3) On each pay day every employer who has deducted tax from the

emoluments of an employee to be paid on that day, shall notify the employee, in writing, of the amount of tax so deducted.

Cessation of employment.

6. When an employee ceases employment with an employer and commences employment with a different employer, he shall notify the Administrator who shall, upon receipt of such notification, send to the new employer a duplicate of the relevant coding notice issued in respect of the employee.

Tax deduction certificate.

7. (1) On receiving a request in that behalf from an employee, an employer shall give to the employee a certificate (a "**tax deduction certificate**") in such form as may be required by the Administrator, showing the period to which the certificate relates and the amount of tax deducted by the employer from the emoluments of the employee during that period:

Provided that an employee may not require his employer to provide such a certificate on more than two occasions in any one year.

(2) A tax deduction certificate incorporating any payment in respect of manual labour performed by somebody other than the payee shall clearly indicate that it includes payments relating to others.

Variation of deductions by direction notice.

8. (1) In any year of charge an employee may apply to the Administrator to have varied the amount of tax deductible under regulation 5.

(2) Upon receipt of such application under paragraph (1), the Administrator shall determine whether, in his opinion, the deductions should be varied and may direct the employer of that employee, by notice in writing (a "**direction notice**"), to vary future deductions relating to that employee as specified in the notice, and to repay such amount as may be specified therein to the employee.

(3) Where, in respect of any year of charge, tax payable by an employee remains unpaid after the due date for the payment thereof, and the Administrator has agreed to accept payment of such tax by instalments, the Administrator may, with the prior consent in writing of the employee (except where the amount of unpaid tax is less than £500, in which case the consent of the employee shall not be necessary) issue to the employer of that employee a direction notice requiring deductions to be made equal to such instalments from the emoluments of the said employee in addition to any tax deductible in accordance with regulation 5.

(4) Where the Administrator is satisfied that no tax is chargeable upon an employee or that alternative arrangements have been made for the payment of any tax chargeable upon the emoluments of any employment of that employee, he may, at any time, direct that no tax shall be deducted from the emoluments payable to that employee in respect of that employment.

Tax deduction form.

9. (1) Every employer shall maintain for each of his employees a record (a "**tax deduction form**") in such form as may be required by the Administrator, of -

- (a) that employee's name,
- (b) that employee's tax reference number or, if the number is not held, that employee's residential address,
- (c) that employee's gross emoluments payable on each pay day,
- (d) the deduction (if any) made therefrom for contributions to an approved pension scheme,

- (e) the reduction (if any) relating to the coding number as shown on that employee's coding notice, and
- (f) the tax deducted from that employee's emoluments,

provided that nothing in this paragraph shall apply in relation to payments which are required by regulation 11(1) to be recorded on an ETI exemption certificate holder's payment list or on a payment to gangers schedule.

(2) The tax deduction form shall record the particulars relating to each employee referred to in paragraph (1) for the following periods -

- (a) the months of January, February and March ("**the March quarter**"),
- (b) the months of April, May and June ("**the June quarter**"),
- (c) the months of July, August and September ("**the September quarter**"),
- (d) the months of October, November and December ("**the December quarter**").

(3) At the end of each of the four quarters referred to in paragraph (2), the employer shall total the columns of the tax deduction form relating to -

- (a) the employee's gross emoluments,
- (b) deductions for contributions to an approved pension scheme, and
- (c) tax deducted,

and shall submit the tax deduction form to the Administrator with payment of the tax deducted as provided in regulation 11 and retain a copy for his own records.

Payment of tax by employer.

10. (1) Subject to the provisions of paragraph (2), every employer shall, not later than the 15th day of the months of April, July, October and January in each year, pay to the Administrator the amount of tax deducted by him from the emoluments of his employees during the March quarter, June quarter, September quarter and December quarter respectively, and submit the tax deduction form for the relevant quarter relating to each of his employees, whether or not any tax has been deducted or was deductible, from the emoluments of such employee.

Where the tax deduction form is not submitted electronically, the tax deduction form shall be accompanied by a list of the employees from whose emoluments tax has been deducted during the relevant quarter.

- (2) Every employer who in any month is a large employer shall -
- (a) not later than the 15th day after the final day of that month, pay to the Administrator the amount of tax deducted by him from the emoluments of his employees during that month, and
 - (b) not later than the 15th day of the months of April, July, October and January in each year, submit to the Administrator the tax deduction form, for the March quarter, June quarter, September quarter and December quarter respectively, relating to each of his employees, whether or not any tax has been deducted or was deductible, from the emoluments of such employee.

Where the tax deduction form is not submitted electronically, the tax deduction form shall be accompanied by a list of the employees from whose emoluments tax has been deducted during the relevant quarter.

(3) The Administrator may, if he considers that to do so would be in the interests of efficient tax collection, require tax deducted to be paid to him at more frequent intervals than those prescribed in paragraph (1) or (2)(a).

(4) At the time of making a payment pursuant to a requirement under paragraph (3) an employer shall, if the Administrator so requires, submit a list of the employees from whose emoluments the tax has been deducted and the tax deduction form for the period in question relating to each of his employees, whether or not any tax has been deducted or was deductible from the emoluments of that employee.

Payments in respect of manual labour performed by others.

11. (1) An employer who makes a payment to an individual in respect of manual labour wholly or partly performed by somebody other than that individual ("**the payee**") shall -

- (a) if the payee has produced to him a currently valid ETI exemption certificate, record the details specified in paragraph (2) on the appropriate list (an "**ETI exemption certificate holder's payment list**") in such form as the Administrator may require, or
- (b) in any other case, record the details specified in paragraph (3) on the appropriate schedule (a "**payment to gangers schedule**") in such form as the Administrator may require.

(2) The details to be recorded on an ETI exemption certificate holder's payment list under paragraph (1)(a) in respect of each payment are -

- (a) the name shown on the ETI exemption certificate,
- (b) the number shown on the ETI exemption certificate,
- (c) the expiry date shown on the ETI exemption certificate,
- (d) the amount of the payment,
- (e) the date of the payment, and
- (f) a declaration that the employer has seen an ETI exemption certificate in the name of the payee which he is satisfied was currently valid at the time when the payment was made.

(3) The details to be recorded on a payment to gangers schedule pursuant to paragraph (1)(b) in respect of each payment are -

- (a) the payee's name,
- (b) the payee's residential address,
- (c) the date of the payment,
- (d) the amount of the payment before deduction of tax, and
- (e) the amount of tax deducted.

(4) Every employer shall, at the end of each of the four quarters referred to in regulation 9(2), and within the time specified in regulation 10(1) or 10(2)(b) -

- (a) subject to paragraph (5), submit to the Administrator the ETI exemption certificate holder's payment list and the payment to gangers schedule, whether or not he has made such payments as are mentioned in paragraph (1) during the relevant quarter (retaining a copy of each for his own records), and
- (b) pay to the Administrator the amount of tax deducted from any payments recorded on any such payment to gangers schedule.

(5) The Administrator may, by notice in writing, exempt an employer from the requirements of paragraph (4)(a) if the employer has certified to the Administrator, in writing, that -

- (a) he does not make such payments as are mentioned in paragraph (1), and
- (b) he will notify the Administrator immediately he commences to make such payments.

ETI exemption certificates.

12. (1) An application for an ETI exemption certificate, or for the renewal of an ETI exemption certificate previously granted, shall be made to the Administrator in writing, signed by the applicant and stating -

- (a) the full name of the applicant and any other names, including trade names, by which he is commonly known,
- (b) the residential address of the applicant,

- (c) the length of the applicant's latest continuous period of residence in Guernsey, if less than five years,
- (d) the Employees Tax Instalment Scheme reference number allocated to the applicant by the Administrator or, if no such reference number has been allocated to him by the Administrator, the date on which he commenced to receive payments in respect of the services of others, and
- (e) that the applicant understands his obligations under section 81A and 193A of the Law and under these Regulations:

provided that, in the case of an application for the renewal of an ETI exemption certificate previously granted, the Administrator may invite and accept an application which contains only the statements mentioned in paragraphs (1)(a) and (e).

(2) On receipt of an application made in accordance with paragraph (1), the Administrator -

- (a) may require the applicant to provide additional information,
- (b) shall, in considering the application and any such additional information, have particular but not exclusive regard to the applicant's compliance record (if any) with the Law and with these Regulations,
- (c) may -
 - (i) subject to paragraph (3), issue to the applicant an ETI exemption certificate showing an expiry date

and either unconditionally or subject to such conditions as he considers expedient, or

(ii) refuse to issue an ETI exemption certificate.

(3) The Administrator shall not issue an ETI exemption certificate unless the applicant -

(a) appears in person and signs an acknowledgement, in such form as the Administrator may from time to time require, of -

(i) receipt of the certificate,

(ii) its expiry date, and

(iii) any conditions attached to its issue, and

(b) in the case of an application for the renewal of an ETI exemption certificate previously granted, surrenders the certificate being renewed to the Administrator, or explains to the Administrator's satisfaction why it cannot be surrendered, and

(c) whether on an application for an ETI exemption certificate or on an application for the renewal of an ETI exemption certificate previously granted, appears in person and has his photograph taken by or on behalf of the Administrator, an impression of which photograph shall be printed on the ETI exemption certificate.

(4) The expiry date to be shown on an ETI exemption certificate is

the third anniversary of its date of issue or renewal as the case may be, or such earlier or later date as the Administrator may determine in any particular case.

(5) The holder of an ETI exemption certificate shall surrender it to the Administrator on being requested to do so.

(6) In relation to an E.T.I. exemption certificate, the Administrator may, if he considers that to do so would be in the interests of efficient tax collection, and without prejudice to any other provision of these regulations -

- (a) attach conditions to the issue or continued validity of the certificate, including conditions requiring tax deducted to be paid to him at more frequent intervals than those prescribed in regulation 10(1),
- (b) reduce or extend a certificate's period of validity, and
- (c) cancel a certificate and, if he thinks fit, publish a notice to that effect in *La Gazette Officielle*.

Special arrangement with employer.

13. In any case in which the Administrator is of opinion that it is desirable or expedient to do so, he may make such special arrangements with any employer as are necessary for carrying into effect the provisions of section 81A of the Law and of these Regulations.

Documents to be submitted, etc, in electronic form.

14. (1) Where under these regulations a document is required to be submitted to the Administrator, the document shall be submitted -

- (a) by electronic means, or

- (b) by such other means as the Administrator may require in any particular case or class of cases.

(2) Where under these regulations a document is required to be in such form as the Administrator may require, the Administrator may (without limitation) require the document to be in electronic form.

(3) The requirements under paragraphs (1) and (2) for a document to be submitted by electronic means or to be in electronic form do not have effect until the 1st January, 2009.

Interpretation.

15. (1) In these Regulations, unless the context otherwise requires -

"code number" means a weekly coding number or a monthly coding number calculated in accordance with regulation 2(2)(d),

"coding notice" means a notice issued by the Administrator under these Regulations comprising a code number and includes a revised coding notice, a supplementary coding notice and a revised supplementary coding notice,

"direction notice" has the meaning assigned to it by regulation 8(2),

"emoluments" has the meaning assigned to it by section 209(1) of the Law and includes a payment to which the provisions of section 81A(2)(b), (bA) or (c) of the Law apply,

"employee" means a person who receives a payment to which the provisions of section 81A(2) of the Law apply,

"employer" means a person who, whether on behalf of himself or of another, makes a payment to which the provisions of section 81A(2) of the Law

apply,

"ETI exemption certificate holder's payment list" has the meaning assigned to it by regulation 11(1)(a),

"large employer" is -

- (a) one employing 80 persons or more at any time in any month, and
- (b) any other employer who gives notice to the Administrator that he wishes to be treated as a large employer for the purposes of these regulations,

"payment to gangers schedule" has the meaning assigned to it by regulation 11(1)(b),

"principal employer" means an employer selected in accordance with regulation 3(1)(a),

"revised coding notice" means a coding notice which has been revised by the Administrator under regulation 1(4),

"revised supplementary coding notice" means a supplementary coding notice which has been revised by the Administrator under regulation 3(2),

"supplementary coding notice" means a coding notice issued under regulation 3(1)(b),

"tax deduction certificate" has the meaning assigned to it by regulation 7(1),

"tax deduction form" has the meaning assigned to it by regulation 9(1),

"the Law" means the Income Tax (Guernsey) Law, 1975, as amended,

and any other expression has the same meaning as in the Law.

(2) The Interpretation (Guernsey) Law, 1948² shall apply to the interpretation of these Regulations as it applies to the interpretation of an enactment.

(3) Any person aggrieved by a decision taken by the Administrator under these Regulations shall be entitled to appeal against that decision as if it were an order in respect of which there is a right of appeal under Part VII of the Law.

Transitional arrangements for year of charge 2008.

16. A coding notice issued under the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2001³, as amended, in respect of the year of charge 2008 shall continue to have effect as a coding notice issued under these Regulations.

Repeal.

17. Subject to regulation 14(3), the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2001⁴, the Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2005⁵ and the Income Tax (Guernsey) (Employees Tax Instalment Scheme) (Amendment) Regulations, 2006⁶ are repealed with effect on and from 1st January, 2008.

² Ordres en Conseil Vol. XIII, p. 355.

³ Guernsey Statutory Instrument 2001 No. 40; amended by 2005 No. 1 and 2006 No. 24.

⁴ Guernsey Statutory Instrument 2001 No. 40.

⁵ Guernsey Statutory Instrument 2005 No. 1.

⁶ Guernsey Statutory Instrument 2006 No. 24.

Citation and commencement.

18. These Regulations may be cited as the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007 and, subject to regulation 14(3), shall come into force on 1st January, 2008.

Dated this 11th day of September, 2007

DEPUTY L.S. TROTT

Minister of the Treasury and Resources Department

For and on behalf of the Department

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations require employers to submit information relating to the ETI Scheme (which, at present, can be in paper form) by electronic means, with effect from 1 January 2009 (unless the Administrator agrees, in respect of any particular case or class of cases, that an alternative format may be used for submission).

The opportunity is also being taken to consolidate all amendments that have been made to the Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2001.

(NB The Policy Council supports the proposals.)

The States are asked to decide:-

V.- Whether, after consideration of the Report dated 11th September, 2007, of the Treasury and Resources Department, they are of the opinion:-

In pursuance of the provisions of subsection (5) of section 81A of the Income Tax (Guernsey) Law, 1975, as amended, to approve the Regulations entitled “The Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007” made by the Treasury and Resources Department on 11th September, 2007.

PUBLIC SERVICES DEPARTMENT

ALDERNEY AIRPORT - DUES AND CHARGES 2008

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

17th August 2007

Dear Sir

Executive Summary

The Public Services Department is seeking approval to increase passenger fees levied at Alderney Airport with effect from 1st January 2008. This increase is needed to ensure that the deficit of expenditure over income is no more than £500,000.

The Treasury and Resources Department could approve increases in the charges applicable at Alderney Airport in accordance with the resolution of the States outlined in paragraph 1.2 below, however in this case where increases are greater than the increase in the RPI for the proceeding 12 month period, the approval of the States is required.

At its meeting held in February 2006 (Billet D'Etat VI, 2006) the States of Deliberation approved a proposal from the Policy Council to enact new legislation enabling relevant Departments to set their own specific charges or fees. Included in the approved schedule was the right for Public Services Department to set its own Airport Dues and Charges. Unfortunately delays in enacting that legislation mean the Department is still unable to set its own charges, and therefore any increases in rates above RPI still need to be referred to the States for approval.

1. Introduction

- 1.1 Alderney Airport has regrettably traditionally run at an overall trading loss. The magnitude of that loss has generally been contained below £500k in recent years, due primarily to increased passenger movements through the airport. Maintaining an overall cap on the operating deficit of Alderney Airport relies on a combination of attempting to identify significant alternative income sources and/or opportunities to reduce costs many of which are incurred in maintaining appropriate standards of Air Traffic Control and Fire Service cover at the airfield. Such standards are dictated by CAA regulations covering the type of

aircraft using the airfield, rather than the frequency of flights or the number of passengers travelling through the airport.

Trading deficits over recent years are as follows:

2001	£431,261
2002	£513,020
2003	£483,705
2004	£497,441
2005	£472,903
2006	£480,942
2007 (Approved Budget)	£480,000
2007 (Probable Outturn)	£505,000
2008 (Budget*)	£498,300

In addition to these annual operating deficits, capital works totalling £1.6m will have been carried out during the period 2001 – 2007.

** The 2008 budget as submitted identified a requirement for additional income of £45k to ensure the deficit below £500k.*

- 1.2 The Public Services Department has recommended to the Treasury and Resources Department that RPI-related increases in the fees and charges payable at Guernsey Airport should apply from 1st January 2008. Such an increase can be approved by Treasury & Resources under authority delegated by a States Resolution dated 31st January 2001 (Billet D’Etat I, 2001) which states:

“...future alterations in airport fees and charges may be implemented with the agreement of the States Advisory and Finance Committee and without reference to the States, provided that increases do not exceed the change in the Guernsey Retail Price Index as at 30th June of the year preceding that of the new charges”.

For reasons stated earlier, increases at Alderney Airport are unable to be contained at an increase below or equivalent to the change in the Retail Prices Index as at 30th June 2007 (+4.7%).

The existing and proposed charges for Alderney Airport are attached as Appendix 1. Generally it is proposed to increase most rates by RPI (+4.7%) with an additional surcharge of £0.25 per passenger movement being applied to Section 1 (C) – ‘Passenger Fees’.

- 1.3 It should be noted that Passenger and Security charges at Guernsey Airport are somewhat lower than those indicated for Alderney Airport on the attached appendix. With effect from 1st January 2008 passenger charges at Guernsey Airport will be £0.80 for CI Movements, £1.76 for other movements, and £1.14 for Security charges. However, Guernsey Airport Passengers also pay an

additional Airport Development Charge of £1.00 per movement (in respect of departures to and from the UK) and £0.50 per movement (in respect of departures to and from the Channel Islands). Comparisons with the charges applicable at Guernsey Airport with effect from 1st January 2008 are included on Appendix 1 for information.

In January 2005, the States of Deliberation agreed an above-RPI increase in 'Passenger Fees' (+£0.75p per passenger movement) at Alderney Airport, to enable a cap of the budget deficit at £500k. That rate has remained fixed since 1st April 2005 at Alderney Airport. No increases in charges were made during 2006 or 2007.

- 1.4 The 2008 budget recently considered by the Public Services Department revealed a potential deficit at Alderney Airport in 2008 of £538,300. This potential deficit resulted from budgeted expenditure of £1,068,300 (4% higher than the predicted 2007 approved budget) and income of £530,000.
- 1.5 In submitting this 2008 budget for consideration, the Public Services Department noted that passenger movements for the first 6 months of 2007, revealed an overall increase of 5% on the previous years movements. Generally passenger movements through Alderney Airport have been realising a steady improvement over recent years, which has significantly assisted in holding the annual budgetary deficit below £500k. However, costs continue to increase year on year, and the requirement to source additional income streams for Alderney Airport has failed to realise any significant increases in income from sources other than traffic receipts. Three factors have affected the 2007 budget:-
 1. The anticipated £40,000 income from paid parking at Alderney Airport had not been forthcoming.
 2. The rent for the hangar has been reduced as a result of damage to the roof which needs £65,000 to repair.
 3. The loss of the Alderney/Jersey Blue Islands' route which contributed 3,500 passengers in 2006.
- 1.6 The Public Services Department is concerned over the continuing deficits accrued at Alderney Airport and had previously recommended to the Treasury and Resources Department that the deficit be capped at a maximum sum of £500,000. This recommendation was made in view of general advice received that savings should be sought from General Revenue Departments. Any additional deficit over and above £500,000 would have to be found, not from the Ports Holding Account, but from the Public Services' budget which is largely spend on the roads infrastructure, sewers, refuse disposal and Alderney Breakwater.

- 1.7 Continued dialogue in respect of the operation and financing of Alderney Airport has continued with the Alderney Airport Working Party (comprising two representatives of the States of Alderney and three members of the Public Services Department). This group has considered alternative methods of reducing costs and increasing income streams, however to date no firm agreement has been able to be reached on alternative income streams.
- 1.8 The Public Services Department therefore reluctantly believes it appropriate to recommend increases as outlined on the attached Appendix 1 with effect from 1st January 2008.

As these rates would exceed an increase equivalent to the change in the Guernsey Retail Prices Index RPI as at the 30th June 2007 (+4.7%), the States of Deliberation is asked to approve this proposed increase in passenger fees.

2. Recommendations

- 2.1 To approve the adjustment in fees and charges for the use of Alderney Airport with effect from 1st January 2008, as outlined in Appendix 1 attached.

Yours faithfully

William M Bell
Minister

Appendix 1**ALDERNEY AIRPORT****Maximum Fees and Charges under the Airport Fees Ordinance 1987**

**All Airport fee rates, are per metric ton or part thereof
and are levied on all arriving and departing aircraft**

**All passenger charges are per movement, i.e. levied on all arriving and departing
passengers**

1. Aircraft in Passenger Configuration**(A) Airport Fees - Long Haul Services**

The fee for the arrival or departure of each aircraft in this category, the last point of departure is or the next point of arrival is 55 nautical miles or more from Alderney Airport.

Rate of Airport Fee per metric ton or part thereof	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
7.84	8.20

Guernsey Airport Equivalent Charge
Proposed Rate (from 1 Jan 2008) £
8.07

(B) Airport Fees - Short Haul Services

The fee for the arrival or departure of each aircraft in this category, the last point of departure is or the next point of arrival is less than 55 nautical miles from Alderney Airport.

Rate of Airport Fee per metric ton or part thereof	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
4.36	4.56

Guernsey Airport Equivalent Charge
Proposed Rate (from 1 Jan 2008) £
4.49

(C) Passenger Fees

The fee for the arrival or departure of a passenger on an aircraft in passenger configuration:-

Category of Passenger	Rate of Airport Fee per passenger		Guernsey Airport Equivalent charge (including ADC)
	Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £	Proposed Rate (from 1 Jan 2008) £
(i) the last point of departure of which is or the next point of arrival is within the Channel Islands	1.53	1.85	1.30
(ii) the last point of departure of which is or next point of arrival is within the Channel Islands, where the passenger remained or will remain on the aircraft at that point	2.46	2.82	2.76
(iii) the last point of departure of which is or the next point of arrival will be outside of the Channel Islands	2.46	2.82	2.76

Note: The fee shall not be payable for any passenger who does not disembark from an aircraft at Alderney Airport and who is on board that aircraft when it next departs from the Airport.

(D) Security Fees

The fee for the arrival or departure of a passenger on an aircraft in passenger configuration:-

Category of Passenger	Rate of Airport Fee per passenger		Guernsey Airport Equivalent charge
	Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £	Proposed Rate (from 1 Jan 2008) £
(i) the last point of departure of which is or the next point of arrival is within the Channel Islands	1.61	1.68	1.14
(ii) the last point of departure of which is or next point of arrival is within the Channel Islands, where the passenger remained or will remain on the aircraft at that point	1.61	1.68	1.14
(iii) the last point of departure of which is or the next point of arrival will be outside of the Channel Islands	1.61	1.68	1.14

Note: The fee shall not be payable for any passenger who does not disembark from an aircraft at Alderney Airport and who is on board that aircraft when it next departs from the Airport.

2. Aircraft in Cargo Configuration/Aircraft without Passengers or Cargo

(A) Airport Fees - Long Haul Services

The fee for the arrival or departure of each aircraft in either category, the last point of departure of which is or the next point of arrival is 55 nautical miles or more from Alderney Airport.

Rate of Airport Fee per metric ton or part thereof	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
4.32	4.52

Guernsey Airport Equivalent Charge
Proposed Rate (from 1 Jan 2008) £
4.52

(B) Airport Fees - Short Haul Services

The fee payable for the arrival or departure of each aircraft in either category, the last point of departure of which is or the next point of arrival is less than 55 nautical miles from Alderney Airport.

Rate of Airport Fee per metric ton or part thereof	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
2.96	3.10

Guernsey Airport Equivalent Charge
Proposed Rate (from 1 Jan 2008) £
3.10

3. Fees for aircraft carrying out local flights

(A) Airport Fees

The fee payable for the arrival or departure of each aircraft which has taken off from Alderney Airport and returned to the Airport without having landed elsewhere.

Rate of Airport Fee per metric ton or part thereof	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
3.14	3.29

Guernsey Airport Equivalent Charge
Proposed Rate (from 1 Jan 2008) £
3.29

(B) Passenger Fees

The fee for the arrival or departure of a passenger on an aircraft in passenger configuration which has taken off from Alderney Airport and returned to the Airport without having landed elsewhere.

Rate of Airport Fee per passenger	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
0.78	0.82

Guernsey Airport Equivalent Charge
Proposed Rate (from 1 Jan 2008) £
0.82

4. Fees for Private Aircraft**(A) Aircraft not exceeding 5 metric ton maximum permissible take off weight**

- (i) The fee for the arrival or departure of a private aircraft, the last point of departure of which is or the next point of arrival is 55 nautical miles or more from Alderney Airport.

Rate of Airport Fee per metric ton or part thereof	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
5.10	5.30

Guernsey Airport Equivalent Charge
Proposed Rate (from 1 Jan 2008) £
5.30

- (ii) The fee for the arrival or departure of a private aircraft in this category, the last point of departure of which is or the next point of arrival is less than 55 nautical miles from Alderney Airport.

Rate of Airport Fee per metric ton or part thereof	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
4.10	4.20

Guernsey Airport Equivalent Charge
Proposed Rate (from 1 Jan 2008) £
4.20

(B) Aircraft exceeding 5 metric ton maximum permissible take off weight

- (i) The fee for the arrival or departure of a private aircraft, the last point of departure of which is or the next point of arrival is 55 nautical miles or more from Alderney Airport.

Rate of Airport Fee per metric ton or part thereof	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
8.10	8.40

Guernsey Airport Equivalent Charge
Proposed Rate (from 1 Jan 2008) £
8.40

- (ii) The fee for the arrival or departure of a private aircraft in this category, the last point of departure of which is or the next point of arrival is less than 55 nautical miles from Alderney Airport.

Rate of Airport Fee per metric ton or part thereof	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
4.50	4.70

Guernsey Airport Equivalent Charge
Proposed Rate (from 1 Jan 2008) £
4.70

Note: Operators of private aircraft who do not make payment of fees and charges before departing from the Airport will be subject to a surcharge at the rate of 100% in respect of the fee for that aircraft.

5. Fees for Test, Familiarisation and Training Flights**(A) Airport Fees**

The fee payable for the arrival or departure of an aircraft which is being used solely for a test, familiarisation or training flight.

Rate of Airport Fee per metric ton or part thereof	
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £
2.95	3.05

Guernsey Airport Equivalent Charges
Proposed Rate (from 1 Jan 2008) £
3.05

(B) Runway Approach Fees

The fee payable for an aircraft on a test, familiarisation or training flight which approaches the runway for the purposes of making a simulated landing but does not land at the Airport.

Rate of Airport Fee per metric ton or part thereof		Guernsey Airport Equivalent Charge
Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £	Proposed Rate (from 1 Jan 2008) £
5.95	6.20	6.20

Note: This charge will continue as a single charge, as it cannot be split on a per movement basis.

6. Additional fees for availability of Alderney Airport outside promulgated hours

An additional fee shall be payable for the use of Alderney Airport outside of the promulgated hours of operation for each movement of an aircraft

Hours of Operation (Local Time)	Rate at Airport for each aircraft movement		Guernsey Airport Equivalent Charges
	Current Rate (until 31 Dec 2007) £	Proposed Rate (from 1 Jan 2008) £	Proposed Rate (from 1 Jan 2008) £
Up to 2229 hours	448.00	469.00	469.00
between 2230 hours and 2259 hours	896.00	938.00	938.00
between 2300 hours and 2329 hours	1,081.00	1,131.00	1,131.00
between 2330 hours and 2359 hours	2,161.00	2,262.00	2,262.00
between 2400 hours and the promulgated time of the opening of the Airport.	3,242.00	3,394.00	3,394.00

Note: This additional fee may be reduced or waived at the discretion of the Board.

7. **Parking Fees**

- (A) A parking fee shall be payable for parking at Alderney Airport of each aircraft after the expiration of the free period set out below from the time of the aircraft's arrival at the Airport.

	Current Rate (until 31 Dec 2007)	Proposed Rate (as from 1 Jan 2008)	Guernsey Airport Equivalent Charges
	FREE PERIOD	FREE PERIOD	FREE PERIOD
(i) Private aircraft under 3 metric tons maximum permissible weight	72 hours	72 hours	24 hours
(ii) Private aircraft exceeding 3 metric tons maximum permissible weight	24 hours	24 hours	24 hours
(iii) Aircraft operated for hire and reward	24 hours	24 hours	2 hours

- (B) The parking fee shall be calculated in respect of each period of 24 hours or part thereof after expiration of the free period appropriate to the aircraft concerned and before the time of take-off.

	Rate of Airport Fee per metric ton or part thereof		Guernsey Airport Equivalent Charges
	Current Rate (until 31 Dec 2007) £	Proposed Rate (as from 1 Jan 2008) £	Proposed Rate (as from 1 Jan 2008) £
(i) For the first metric ton	9.85	10.30	10.30
(ii) For each additional metric ton	2.08	2.18	2.18

Note: Unless the context otherwise requires, words and expressions used in this Appendix have the same meanings as in the Airport Fees Ordinance 1987.



PUBLIC SERVICES

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Central Services

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09 July 2007

W Walden Esq
Chairman
General Services Committee
States of Alderney
States Office
Island Hall
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GY9 3AA

Dear Mr Walden

ALDERNEY AIRPORT

Thank you for your attendance at the meeting of the Alderney Airport Working Party on 04 July 2007. It was a good opportunity for both sides to consider and learn more about issues which clearly affect us both.

I thought it would be useful to summarise our discussions and to seek your further thoughts on the key areas where additional input from Alderney would be valuable.

Finance

As you will be aware from our dialogue, the Board of the Public Services Department is under considerable fiscal pressure as we enter into 2008 and it is critical that the £500k operating deficit at Alderney Airport is not exceeded in 2008.

A number of ways of reducing costs or increasing revenues have been previously discussed by the Alderney Airport Working Party, some of which were again briefly summarised at our recent meeting. Options have included reducing the operating hours of the airport (later opening and/or early closing), a complete closure of the airport on one or more days each week, generating income from other sources (including public car parking charges), a specific additional levy on departing passengers, or a direct contribution/subsidy from the States of Alderney, either in cash terms or by the States of Alderney assuming responsibility for specific elements of the airport operation (such as the terminal building and its costs).

Experience and knowledge of airports elsewhere pointed to car parking revenues as being the most viable option but it was noted that this proposal has been rejected by your Committee.

The preliminary budget estimates for Alderney Airport for 2008 (assuming passenger levels remain at the currently good 2007 level), indicate that an additional £40k in revenue will be required for 2008. This takes into account the known increases in salaries and wages, including changes to the level of social security contributions.

The options for achieving this additional income stream are generally as set out above and at the recent meeting the Alderney Airport Working Party could not agree upon the most appropriate choice or mix of options to achieve this increase.

In the absence of any definitive proposals that could offer some certainty that the increased income or reduced costs could be achieved from early in 2008, then it is likely the Board will have little option but to consider asking the States of Guernsey to agree a rise of approximately 50p per passenger movement.

It may be that the much hailed report of the Alderney 'think-tank' will recommend other means of achieving additional income or reducing costs and therefore it is even more disappointing that despite assurances on the delivery of this report, it has not to this point in time produced any tangible proposals which the Working Party or the Board could have considered.

Hangar Development

The Working Party also discussed the possibility of seeking expressions of interest for the repair and operation of the existing aircraft hangar, and the potential development of the site(s) identified in the Alderney Airport Master Plan.

I note that you expressed a preference to advise your Committee of our intention and before we advertise for expressions of interest. Such developments would, in the longer term, provide a useful additional income stream and I should therefore be grateful if you would make arrangements to place this matter before your Committee in the next few weeks and advise me of the outcome as soon as possible thereafter.

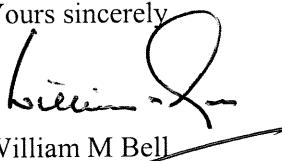
Clearway

Finally, we also discussed the problem of the clearway zones at the western end of the runway. It was explained that the CAA has decided that it is no longer prepared to allow certain distances at the end of the runway to be regarded as 'clearway' given the potential for obstructions to be present. This could adversely affect passenger loads on aircraft, placing an artificially low cap in certain weather conditions on the number of passengers who can fly, or on the amount of cargo carried. This clearly has repercussions for the whole of the Island.

Any actions your Committee could therefore propose on means of restricting movements on the track during airport operating hours would be greatly appreciated. Again I regret there is some urgency on this matter given that the annual CAA audit will be taking place in September. I would therefore be grateful to receive your Committee's comments and proposals by the end of July.

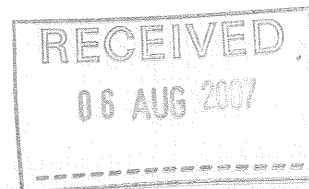
I look forward to hearing from you on these matters in the near future.

Yours sincerely



William M Bell
Minister

CC: Airport Director, Guernsey Airport



STATES OF ALDERNEY

States Office, P.O. Box 1, Alderney, Channel Islands GY9 3AA

WW/djj/spp

2nd August 2007

Deputy W Bell
Minister
Public Services Department
Sir Charles Frossard House
La Charroterie
St Peter Port
GUERNSEY GY1 1FH

Dear Deputy Bell

Alderney Airport

I refer to your letter dated 9th July.

Guernsey and Alderney Airports are under common management and the Airport here is a transferred service. Taken together the two Airports are in profit. The separate accounting is arbitrary in its effect. I note what you say about the £500,000 "operating deficit" at Alderney Airport not being exceeded in 2008 but feel bound to point out that it is utterly unrealistic to have to face increasing expenditure on such elements as salaries and social security contributions while holding the deficit at a fixed and, in real terms, diminishing level. Such a policy is not sustainable.

Reducing operating hours or complete closure of the Airport on one or more days each week is also unrealistic and would, in our view, be counterproductive bearing in mind the need (for the Airport and the economy as a whole) to increase passenger figures.

An additional levy on departing passengers (unless it is to go towards Airport improvements) is no different to simply increasing existing charges. Increasing existing charges (particularly when they already exceed those payable in Guernsey) carries with it the danger of discouraging passengers and, as when hangarage charges were increased, actually reducing income.

You also refer to a direct contribution/subsidy, either in cash terms or by the States of Alderney assuming responsibility for specific elements of the airport operation (such as the terminal building and its costs). The transferred services are provided in return for Alderney residents paying Guernsey taxes. This is fundamental to the 1948 Agreement. If Alderney is to take responsibility for any part of the transferred services it would have to be on the basis that Alderney retained or had remitted back to it an element of the taxes paid to Guernsey.

Alderney Airport 02.08.07/.....2.

It must be doubted that the figure you have factored in for car parking charges is attainable. It appears to make no allowance for equipment and administration and there has been no proper account taken of the particular circumstances of Alderney Airport. We view increased passenger levels as the most effective way of increasing revenue and believe that the whole package, including car parking, should be such as to encourage use of the Airport. Our position as far as the existing car park is concerned remains unchanged. However, in order to allow revenue to be derived from long term car parking in the Airport area I would be prepared to recommend to the General Services Committee that a field presently leased by the States of Alderney (and which can be accessed from the existing car park) be made available for this purpose subject to all administrative and other related expenses being borne by your Department and the passenger fees not being increased (you mention a likely increase of 50p per passenger movement which, in any event, is substantially in excess of any increase in RPI and would widen the gap still further between Alderney and Guernsey charges). The lease runs for five years from 1st January 2005 with an option to extend for a further five years. The rent is £500 per annum, increasing by RPI if the option is taken. If brought into use as a car park it must be covered with perforated blocks which allow the growth of grass.

You refer to what you describe as the "think tank". An Airport with an operating deficit of £500,000 is unlikely to be quickly placed in profit or even to be capable of being operated within a capped figure the true value of which diminishes by the year. Ideas of how to bring this about would be likely to have occurred already to those responsible for operating the Airport. It was never expected that the Alderney Airport Advisory Group and its consultant would come up with a swift and easy answer. It has looked at ways in which the Airport might be differently managed but its aim has been to maintain and improve services not simply to achieve compliance with an arbitrary capping of the operating deficit. If we are to come to you with a proposal for management of the Airport by, or in some way through, the States of Alderney it must first be established what might be retained in the way of budgetary and other support. We regard this as a matter affecting more than just the Public Services Department and are requesting a meeting at Policy Council level.

You also mention the hangar. As we understand it, income from the hangar had already fallen as a result of increased charges discouraging use of it. It now requires some £65,000 spent on roof repairs. Presumably this is not regarded by you as a good investment or you would be making it. We feel that the question of this and other potential developments at the Airport should be explored as part of what might induce another person or body to take over management of the Airport, in whole or in part.

As far as 'clearway' is concerned we were surprised that what has apparently been acceptable for a very long time is no longer regarded as such. The road is the only vehicular route round that side of the Airport. From the plan provided at our meeting

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it is a short length of road passing marginally within one corner of the required clearway. As there is a wall there which exceeds the height of an ordinary car rerouting the road, restricting movements on it or even closing it will only improve the position to the extent that a tall vehicle or perhaps person on horseback protrudes above the height of the wall. That said, we have investigated the feasibility of rerouting the road. In technical terms, this can be done, but tracing the relevant landowner(s) is proving difficult. In 1963 the land was recorded as belonging to the heirs of Francis Le Riche and Mary Mignot Le Riche who died, respectively, in 1935 and 1915. There may be some delay in achieving some sort of effective notice to claimants – the last correspondence from family members was in 1995. In view of the fact that it seems to be tall vehicles or perhaps riders with which we are concerned would a height restriction be acceptable, either as an interim or permanent measure? Does whatever we decide upon have to be in place by September or do we have to simply indicate then what we intend to do? We would welcome the chance to meet with CAA representatives and discuss their requirements.

Finally, although not referred to in your letter, mention was made at our meeting of the land acquisitions with which John Sumner has been dealing. Much has been achieved by negotiation and terms are in the process of being agreed in the case of the last acquisition likely to be achieved voluntarily. This will set a benchmark valuation for those pieces of land which must be acquired compulsorily (or by threat of the use of compulsory powers).

Yours sincerely



Bill Walden
Chairman, General Services Committee

W Walden Esq
Chairman
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States Office
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GY9 3AA

17 August 2007

Dear Mr Walden

ALDERNEY AIRPORT

Thank you for your letter dated 2nd August 2007 on the above matter.

I fully appreciate the comments you make in respect of pegging the Alderney Airport deficit at £500,000 per annum and that in real terms this becomes a diminishing value over time. It is however a reflection of the pressure being exerted on my own Department's budgets and on the cash limit approved by Treasury & Resources, which in recent years has actually seen reductions in cash terms.

The opportunity for some form of contribution by the States of Alderney toward the running costs of certain aspects of the Airport operation was suggested as an alternative means of deferring additional passenger charges. I understand the 1948 agreement could be argued to limit the States of Guernsey's responsibility to providing an airfield, and it could be argued that this may not have to include the provision of (for example) a terminal building. In such circumstances some costs of the terminal could, in my view, be considered to be offset by the States of Alderney.

I have noted your offer of the field adjacent to the public car park as an opportunity for paid parking. I do see some logistical issues with that proposal. Firstly as a supplement to the main public car park, it is probably the case that it will only be used when the main car park is full, particularly if the main car park remains free of charge. Secondly to develop it for year-round use (through the installation of PERFO matting) would be costly as the material alone is around £10 per square metre before installation. I would much prefer to trial paid parking on the existing hard surfaced car park for a period of time to assess both demand and likely income levels before investing in the infrastructure to extend the car park onto the field site.

I note your comments in respect of the Alderney Airport 'Think Tank'. Whilst I appreciate its deliberations have taken a long period of time, we as a Board have to face the ongoing realities of managing and containing the deficit in the operation of the airfield, and as such we do not have the luxury of waiting for the outcome of those

deliberations in determining how we can best recover as much of the cost base at the Airport. The future repair of the hangar is a further example of needing to meet an operational need whilst at the same time not prejudicing any bigger development schemes that either the 'Think Tank' or the States of Alderney may be proposing. It is critical this report is debated in the very near future; else we will have no option but to pursue any private interest in the existing hangar as a separate work stream, to ensure the facility is repaired and becomes productive.

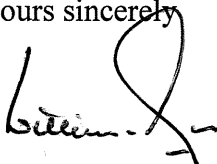
In respect of the clearway, then I regret the CAA's position on this is very clear. As recommended at our July meeting, the most likely and simple resolution to the problem will be for the installation of low level red stop lights which could be activated from the control tower in specific weather conditions. This solution is much simpler and more quickly implemented than a major land purchase and road rerouting exercise and is our favoured option. Alternatives in respect of modifying operational parameters of the aircraft have been explored with the commercial airlines however these have had to be ruled out due to lack of visibility of the road from the Control Tower. As a result load factors on trislander aircraft will be reduced on hot days, and this will adversely affect the number of passengers who can travel to the island. I would therefore ask as a matter of urgency you confirm that the works may proceed to install stop lights on this track.

In respect of land acquisitions, the minutes of our meeting held on 4th July 2007 confirm that John Sumner will be asked to write to the Airport Director to confirm the current state of land acquisitions and to supply indicative timescales for the completion of negotiations. This is particularly important as we wish to supply this information to our CAA inspectors when they complete the annual audit in mid September. I should be grateful if John could be asked to provide this update as soon as possible.

Finally, in the absence of any firm alternative proposals, my Board has now approved the attached draft States Report seeking an increase in Alderney Dues and Charges by +4.7% with effect from 1st January 2008. In addition, and to contain the budgeted deficit to below £500k, the attached States Report also seeks a further increase of £0.25p per passenger movement on category (c) charges (Passenger Fees).

I should be grateful to receive any comments on these proposals at your earliest convenience and for further information as requested in this letter.

Yours sincerely



William M Bell
Minister

CC: Airport Director, Guernsey Airport

(NB The Policy Council supports the proposal.)

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

The States are asked to decide:-

VI.- Whether, after consideration of the Report dated 17th August, 2007, of the Public Services Department, they are of the opinion:-

To approve the adjustment in fees and charges for the use of Alderney Airport with effect from 1st January 2008, as outlined in Appendix 1 to that Report.

HEALTH AND SOCIAL SERVICES DEPARTMENT

GUERNSEY HEALTH AND SOCIAL SERVICES CHARITABLE TRUST

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

24th August 2007

Dear Sir

EXECUTIVE SUMMARY

1. In 2001, the Guernsey Health Services Charitable Trust (GH SCT) was formed, amalgamating the former Board of Health staff and patient amenity funds and transferring administration of the funds to a trust, independent of the States.
2. Following the Machinery of Government changes in 2004, the Health and Social Services Department (HSSD) incorporated the former Board of Health, St Julian's House and the Children Board. The Children Board had amenity funds, which are structured along the lines of the old Board of Health amenity funds, and continue to be administered by staff of the HSSD.
3. It is proposed that the former Children Board amenity funds be administered in a similar way to the GH SCT funds.
4. In order for this to be achieved, the existing Children Board trusts should be dissolved and their funds should be incorporated within the new trust proposed at paragraph 5 below and administered by independent trustees.
5. It is also proposed that the new trust reflects the revised HSSD structure and that the GH SCT be dissolved and replaced with the new trust to be known as the Guernsey Health and Social Services Charitable Trust.

BACKGROUND

6. In February 2001, the former Board of Health assigned the administration of its amenity funds to a new organisation, the Guernsey Health Services Charitable Trust (GH SCT). The Board resolved that it was desirable that the States should establish a charitable trust, whereby the trust fund could be held and administered by independent trustees and not by staff or the Board of the HSSD.

7. The independent trustees are volunteers with a range of professional backgrounds, such as legal (an advocate), finance/insurance industry, academic (a retired head teacher), nursing and social work. A number of the trustees are ex-employees of the HSSD and therefore have some detailed knowledge of the organisation, whilst retaining independence. Those trustees that were not previously employees of the HSSD provide a balance and 'reality check'.
8. Previously the amenity funds, which were monies, assets and other personalty given by way of gift, donation and bequest to be used by the Board for the general good of the patients, clients and staff, were administered by officers of the Board of Health.
9. The Machinery of Government changes resulted in the Board of Health, St Julian's House and the Children Board coming together to form the Health and Social Services Department (HSSD). Both St Julian's House and the Children Board brought amenity funds with them to the new organisation.
10. The St Julian's House funds were addressed when the Mansell Trust was dissolved under the terms of the Mansell Trust (Guernsey) Law, 2007 (Billet XVII, 2006). The former Children Board amenity funds, were, and still are, structured along the lines of the old Board of Health amenity funds. Details of the value of these funds are contained in the appendix to this report.
11. It is proposed that these amenity funds be administered in a similar way to the funds administered by the GH SCT.
12. Advice from the Law Officers indicates that the current GH SCT and the former Children Board amenity trusts should be dissolved and replaced with a new trust, whose trustees are the same as those of the GH SCT, and that the new trust should incorporate the funds of all the dissolved trusts.
13. To this end, the new trust, to be known as the Guernsey Health and Social Services Charitable Trust, would be created.
14. The Law Officers have also advised that in order to achieve this a Projet de Loi should be enacted, with the following operative provisions:
 - (i) On the date of commencement of the Law, the existing funds in the Children Board amenity funds should be paid over to the Guernsey Health and Social Services Charitable Trust and administered by the trustees in accordance with their constitution for charitable purposes, thereby dissolving the amenity funds and the GH SCT.
 - (ii) Upon receipt of the funds by the trustees of the Guernsey Health and Social Services Charitable Trust, the existing administrators of the

Children Board amenity funds would be discharged from all obligations in respect of the funds.

RECOMMENDATIONS

15. The States is asked to

- a) approve the formation of the Guernsey Health and Social Services Charitable Trust;
- b) approve the dissolution of the Guernsey Health Services Charitable Trust and of the Children Board amenity funds;
- c) agree that the trustees of the Guernsey Health Services Charitable Trust be discharged of their responsibilities for this trust and that they be appointed as trustees of the Guernsey Health and Social Services Charitable Trust;
- d) agree to the transfer of the Children Board amenity funds and the funds of the GHSCCT to the Guernsey Health and Social Services Charitable Trust;
- e) agree that the trustees of the Children Board amenity funds be discharged of their responsibilities for the funds; and
- f) direct the preparation of the necessary legislation.

Yours faithfully

P J Roffey
Minister

APPENDIX**DETAILS OF FUNDS TO BE TRANSFERRED TO THE GUERNSEY HEALTH
AND SOCIAL SERVICES CHARITABLE TRUST.**

	Capital	Revenue	Total
Charybdis Fund	-	2,729.67	2,729.67
General Fund	24,000.00	26,355.75	50,355.75
Saltmarsh – Greenfields	50,842.72	13,644.22	64,486.94
Saltmarsh – Swissville	28,092.47	15,216.09	43,308.56
Total	<u>102,935.19</u>	<u>57,945.73</u>	<u>160,880.92</u>

(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

VII.- Whether, after consideration of the Report dated 24th August, 2007, of the Health and Social Services Department, they are of the opinion:-

1. To approve the formation of the Guernsey Health and Social Services Charitable Trust.
2. To approve the dissolution of the Guernsey Health Services Charitable Trust and of the Children Board amenity funds.
3. That the trustees of the Guernsey Health Services Charitable Trust be discharged of their responsibilities for this trust and that they be appointed as trustees of the Guernsey Health and Social Services Charitable Trust.
4. To transfer the Children Board amenity funds and the funds of the Guernsey Health Services Charitable Trust to the Guernsey Health and Social Services Charitable Trust.
5. That the trustees of the Children Board amenity funds be discharged of their responsibilities for the funds.
6. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

COMMERCE AND EMPLOYMENT DEPARTMENT

APPOINTMENT OF AN INDUSTRIAL DISPUTES OFFICER AND DEPUTY

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

27th August 2007

Dear Sir

1. Executive Summary

- 1.1 Under The Industrial Disputes and Conditions of Employment (Guernsey) Law, 1993 (The Law), the States of Guernsey is required to appoint an Industrial Disputes Officer and a Deputy Industrial Disputes Officer.
- 1.2 Following an open recruitment and assessment process, the Commerce and Employment Department is recommending that the States appoint Mr Michael Allen Fooks (the current Deputy Industrial Disputes Officer) as Industrial Disputes Officer. If appointed, Mr Fooks wishes the States to approve his nomination of Mrs Michele Tiffin as the Deputy Industrial Disputes Officer.
- 1.3 The Department recommends that the States appoint Mr Fooks and Mrs Tiffin for a period of 5 years from 1st January 2008.
- 1.4 The Department believes that it is timely for the States to note the significant contribution of Mr Taylor, the retiring Industrial Disputes Officer, to the maintenance of the generally excellent industrial relations environment enjoyed in the public and private sectors of the Island's economy since 1996.

2. Background

- 2.1 Section 1 of The Industrial Disputes and Conditions of Employment (Guernsey) Law, 1993 (The Law) requires the States to appoint an Industrial Disputes Officer (IDO). Section 2 of the Law requires the Industrial Disputes Officer to appoint a Deputy Industrial Disputes Officer (DIDO), whose appointment is subject to the approval of the States.
- 2.2 The current Industrial Disputes Officer, Mr Richard Stanton Taylor is retiring from the role on 31st December 2007 and the appointment of the Deputy

Industrial Disputes Officer, Mr Michael Allen Fooks terminates on the same day.

- 2.3 In 2005 the Department recommended the appointment of Mr Taylor and Mr Fooks as IDO and DIDO respectively for a further period of two years, during which time it was hoped to complete a review of the Industrial Disputes Law. A part of that review was to consider the appointment process for the IDO and DIDO to see if any changes or modifications were required.
- 2.4 Whilst the full review has not yet been finalised, the Department has considered the approach to the appointment of Industrial Disputes Officers and has used a revised process to arrive at the recommendation in this report. The Department now expects the review of the Law to be completed and any resultant proposals for change to be brought back to the States during 2008.

3. Recruitment and Selection Process

- 3.1 To ensure a strong element of independence, and impartiality in the selection process for the post of IDO and DIDO, the Department advertised the appointments, and established a selection process for suitable applicants. The process was similar to that used in 2006 to select members for the Employment and Discrimination Tribunal Panel.
- 3.2 The short-listed candidates were interviewed by a panel made up of two senior industrial relations and dispute resolution specialists from the Advisory and Conciliation and Arbitration Service (ACAS), and the Senior Industrial Relations Advisory Officer, Commerce and Employment Department. Candidates were assessed against the key criteria and skills identified for the positions, with a part of the interview being based on analysis of a typical, but hypothetical, industrial dispute situation.
- 3.3 The Panel made recommendations to the Commerce and Employment Department as to whom they considered the most suitable candidates for appointment.

4 Term of the Appointment

- 4.1 The Law requires the States to appoint the Officers “*for such period as the States may direct.*” The Department believes that it is important for the Island’s economy that the appointed industrial disputes officers have the opportunity to build their expertise in this valuable role and to apply that over a number of years, giving continuity of approach in this important area of industrial relations. Having weighed up the options, the Department has concluded that a 5-year term is appropriate for both of these appointments.

5. Conclusions

- 5.1 The Department supports the findings of the selection panel and recommends that the States appoint Mr Michael Allen Fooks as Industrial Disputes Officer for a period of 5 years, with effect from 1st January 2008.**

Following discussions between Mr Fooks and Mrs Michele Tiffin, and in the light of the findings of the selection panel, Mr Fooks proposes to appoint Mrs Tiffin as his Deputy.

The Department supports Mr Fooks' proposal and recommends the States to approve the appointment of Mrs Tiffin for a period of 5 years, with effect from 1st January 2008.

- 5.2** The Department would also ask the States to note the significant contribution made by Mr Taylor to industrial relations in Guernsey, during his eleven years in the roles of IDO and Deputy. Mr Taylor has not only assisted in the timely resolution of numerous industrial disputes, but he has also successfully discharged a wider role helping to maintain good industrial relations between the parties during disputes and encouraging continued good industrial relations in the workplace after a dispute.
- 5.3** Mr Taylor has always carried out his duties to excellent effect, maintaining independence and impartiality, and universally commanding the respect of the parties through his practical approach to dispute resolution. His close working relationship with his Deputy, and the States Industrial Relations Staff, has ensured a joint approach to dispute resolution that has helped maintain Guernsey's enviable record of good industrial relations.

6. Recommendations

- 6.1** The Commerce and Employment Department recommends the States
- (a) to appoint Mr Michael Allen Fooks as Industrial Disputes Officer for a period of five years with effect from 1st January 2008 and ending 31st December 2012; and
 - (b) to approve the appointment of Mrs Michele Tiffin as Deputy Industrial Disputes Officer for the same period.

Yours faithfully

Stuart Falla
Minister

(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

VIII.- Whether, after consideration of the Report dated 27th August, 2007, of the Commerce and Employment Department, they are of the opinion:-

1. To appoint Mr Michael Allen Fooks as Industrial Disputes Officer for a period of five years with effect from 1st January 2008 and ending 31st December 2012.
2. To approve the appointment of Mrs Michele Tiffin as Deputy Industrial Disputes Officer for the same period.

COMMERCE AND EMPLOYMENT DEPARTMENT

REPORT ON THE INTRODUCTION OF MINIMUM WAGE LEGISLATION IN GUERNSEY

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

28th August 2007

Dear Sir

1. **Executive Summary**

- 1.1 The Commerce and Employment Department is pleased to be bringing positive proposals back to the States, which reflect an appropriate “Guernsey” approach to the administration and enforcement of minimum wage legislation. The Department believes this legislation will be a valuable step forward in employee protection.
- 1.2 A public consultation on key aspects of a minimum wage for Guernsey was conducted between October and December 2006. A summary of the results of this exercise are attached at **APPENDIX 1**
- 1.3 Discussions have been held with The UK Low Pay Commission, the Jersey Employment Law Forum, The Jersey Employment & Social Security Department, the Guernsey Social Security Department and the Job Centre.
- 1.4 Commerce & Employment is aware that there is significant political support for minimum wage legislation in Guernsey, although some employers, particularly in the hospitality and horticultural industry, remain opposed to it. However, there is recognition that employers in those industries are finding it difficult to recruit staff unless they pay wages in the region of the minimum wage applicable elsewhere in Europe.
- 1.5 The Commerce and Employment Department strongly supports the implementation of Minimum Wage legislation that will:
 - Eliminate the worst cases of financial exploitation in the workplace.
 - Be cost effective to administer.

- Be capable of providing sufficient level of protection for employees.
- Be clear and practical for business to understand and apply.

1.6 The Commerce and Employment Department is therefore recommending that the States introduce minimum wage legislation, that:

- Creates a statutory Minimum Wage, which is reviewed annually following consultation with employer and employee groups.
- Establishes a minimum hourly rate for adults aged 19 and over.
- Has the provision to set different rates, if needed, for Young Persons (school leaving age up to and including 18) and Apprentices.
- Allows for a specified maximum 'offset' for accommodation and food provided by the employer.
- Requires employers to maintain sufficient records of hours worked and wages paid so that compliance can be checked.
- Uses a 'reactive' system for investigation of alleged breaches.
- Allows an employee to bring a claim in respect of this legislation to the (existing) Employment and Discrimination Tribunal.
- Establishes protection for employees exercising their rights under this legislation.

1.7 The report does not recommend a minimum wage rate, but sets out a straightforward, consultative, approach to establishing a recommendation to the States in due course. That said, the Department's expectation is that the Island will set rates close to those in the UK, the Isle of Man, and Jersey.

1.8 The administration, monitoring and enforcement of the minimum wage can be accommodated within the existing resources of the Industrial Relations Service if the recommended 'reactive' approach is adopted and provided there is not a significant number of infringements, complaints or applications to be dealt with.

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Appendix

Summary of feedback from 2006 public consultation

2. What is the Objective of a Minimum Wage?

- 2.1 Although a minimum wage may appear to be a relatively straightforward concept, the public consultation process showed that, to a degree, Minimum Wage can mean different things to different people.
- 2.2 Whilst to many it means a base rate for wages, set at a level under which no employee's wages should fall, to others it should include the socio-economic considerations to ensure people are paid a '**living wage**' in relation to the cost of Guernsey housing and basic living expenses.
- 2.3 The range of views of the expectations and objectives for minimum wage legislation can be summarised as:
- (a) to eradicate the worst cases of financial exploitation by employers; or
 - (b) to provide a living wage; or
 - (c) to assist in resolving absolute poverty.
- 2.4 View (a) is simple and achieves the objective in terms of protecting employees from exploitation and setting a base rate under which no employee's wages should fall.
- 2.5 View (b) is more complex and subjective and a wide range of detailed statistical information would need to be collected and analysed in order to establish what a living wage might be. There is a risk that a piece of legislation that takes into account not only '**Wages**', but also tries to address '**Earnings**' or '**Income**', could become complex and costly to administer, with consideration being given to arguments about taxes, social benefits and the net value of take home pay for employees in Guernsey.
- While this approach could contribute to addressing some of the Corporate Anti Poverty Programme objectives, to use the statutory minimum wage as a tool to achieve this would, in the Department's view, be expecting too much from the legislation and will inevitably lead the debate into a subjective view of what the average worker in Guernsey considers to be the essential minimum to meet an expected standard of living.
- 2.6 View (c), like (b), is dependent on a number of factors on which detailed statistical information will also be required.
- 2.7 Advice received from the UK Low Pay Commission responsible for the setting and updating of the UK minimum wage, is clear. The minimum wage was introduced in the UK, purely to address the worst forms of financial exploitation by employers. It is this view that the Commerce and Employment Department endorses.

- 2.8 In consultation, the Social Security Department advanced the following view in favour of a minimum wage:

The Supplementary Benefit scheme, administered by the Social Security Department, is intended to bring a person's income up to subsistence levels agreed every year by the States. A number of supplementary benefit claimants work full-time and still qualify for a weekly top-up on their wages. While the introduction of a minimum wage will not in itself remove the possibility of low earners needing to claim supplementary benefit, it is likely to reduce the size of the benefit top-up in certain cases. There is therefore a direct connection between the minimum wage and benefit expenditure.

- 2.9 The Commerce and Employment Department is firmly of the view that minimum wage legislation is a step towards addressing Anti Poverty issues, but only as part of a lengthy and more complex solution. It does, however, put in place at an early stage, a foundation on which the Corporate Anti Poverty Programme can develop.

Recommendation

- 2.10 **The Commerce and Employment Department believes that to try and achieve more than to address the worst forms of exploitation would be bureaucratic, expensive, and unrealistic, particularly in a small jurisdiction.**

<p>The Commerce and Employment Department therefore proposes that the States adopts, as the key objective to minimum wage legislation, the elimination of the worst cases of wage exploitation by employers.</p>

3. Setting the Minimum Wage Rate

Background

- 3.1 The UK, the Isle of Man, and Jersey have all chosen to use an independent statutory body to set and review their statutory minimum wage. Each operates in a slightly different way, but with similar underlying principles.
- 3.2 The majority of respondents (27) to the public consultation process supported a simple approach, requiring the States to set the minimum wage rates on recommendation from the Commerce and Employment Department following consultation with employer and employee representative groups.
- 3.3 A slightly smaller number, but still a majority of respondents (21), favoured the same process being used for subsequently reviewing and updating minimum wage rates in the future. A number of respondents (11) felt the rate could simply be increased by RPI each year.

- 3.4 A number of respondents expressed the view that the Commerce and Employment Department was best placed to monitor the effects and the level of wages in industry in Guernsey.

Recommendation from an Independent Statutory Body

- 3.5 The independent statutory bodies in the UK, the Isle of Man, and Jersey, are mandated to investigate and make recommendations to Government on setting and updating the minimum wage.
- 3.6 The Low Pay Commission (UK), the Minimum Wage Committee (Isle of Man) and the Employment Law Forum (Jersey) are all required to carry out extensive research, investigations, and surveys on the effects of the minimum wage on the low pay sectors. They also consider the effects on unemployment, the job market, and on businesses likely to be affected by the minimum wage rate.
- 3.7 These statutory processes have resulted in a similar level of minimum wage being set independently in each of the three jurisdictions, with only a 20p per hour difference between the lowest and highest rates set. By the end of 2007, the Adult Rate in the respective jurisdictions will be:

The UK	£5.52 per hour
The Isle of Man	£5.60 per hour
Jersey	£5.40 per hour

Recommendation from the Commerce and Employment Department

- 3.8 A significant number (27) of those who responded to the consultation process favoured the rate being set and adjusted by the States, on recommendation from Commerce and Employment after consultation with employer & employee groups. The majority (28) favoured a rate that was broadly the same as the UK and Jersey.
- 3.9 This comparative approach to setting the rate would provide a level playing field when recruiting staff from outside the Island and ensure Guernsey employers are not disadvantaged by not being able to attract staff, particularly into the lower paid industries because other jurisdictions in Europe have a guaranteed minimum wage.
- 3.10 To achieve this, the minimum wage legislation could simply reflect the process already outlined in other employment protection legislation for the introduction of Codes of Practice. This process relies on recommendations being made to the States by Commerce & Employment after consultation with:

“Such organisations, or associations of organisations, respectively representative of employers and employees in Guernsey and such other organisations or bodies as appear to the Board [sic] to be appropriate”

3.11 The Commerce and Employment Department could be required by Law to take into account factors such as:

- The minimum rates in other comparable jurisdictions (e.g. the UK, IOM and Jersey).
- The economic climate and trading conditions prevailing in Guernsey at that time.
- The employment and unemployment situation.
- The rate of inflation.
- Current pay rates (acquired through Industrial Relations Service information, the States of Guernsey, Policy Research Unit and the Job Centre).
- The increase in the Guernsey ‘average earnings index’.

(Note: Reliable ‘average earnings’ data will also be required from the Policy and Research Unit for this comparison).

3.12 Having considered the information described above, the Commerce and Employment Department would determine a figure on which they would then consult and, taking into account the comments from the consultation process, decide whether the proposed rate needs to be amended before making recommendations to the States.

3.13 The Department has considered whether the costs of:

- Introducing legislation;
- recruiting and appointing the panel;
- providing the administrative support for an independent statutory body; and
- collecting the range of statistical data required

can be justified, (particularly if the end result is a recommended minimum wage rate broadly in line with the other 3 jurisdictions referred to above), the Department concluded that the adoption of a more straightforward and simple ‘Guernsey solution’ could achieve the desired result, without the need for yet another statutory body.

3.14 The Commerce and Employment Department believes that the simplest and

most cost effective way for Guernsey to review and update the minimum wage rate is to consider the same criteria and follow the same consultation process as would be used for setting the initial rate. The Commerce and Employment Department could then issue a Statutory Instrument (SI) to be laid before the States. This approach would remove the need for an annual States Report, but would still provide the States with an opportunity to debate any variation to the rate and associated issues if they so wished.

- 3.15 This process could be managed relatively easily on an annual basis by the staff from the Industrial Relations Service and the consultation process completed within 4-6 weeks. It would become a routine task, covered by legislation, but would still be subject to final States approval.

Recommendation

- 3.16 **The Commerce and Employment Department recommends the States approve the introduction of legislation for setting the initial minimum wage rate, and reviewing and updating it annually, following a process of consultation with employer and employee groups, rather than by the operation of a statutory body.**

4. How many Minimum Wage Rates should there be?

- 4.1 As a result of the introduction of Minimum Wage legislation in the UK, the Isle of Man, and Jersey, each jurisdiction has a variety of development or trainee rates. In the UK, for those aged 18 –21, there is a ‘Development Rate’ (see below) and in Jersey, for those on approved training, there is a ‘Trainee Rate’.
- 4.2 Under the Jersey system the ‘Trainee Rate’ requires consideration of a definition of who is a ‘trainee’ and the approval of the training by the Enterprise and Business Development Team of the Jersey Economic Development Department. Jersey has found this difficult to administer due to the difficulties of categorising what constitutes ‘approved training’ in any particular job or industry.
- 4.3 Prior to 1st October 2006, the UK had a different Development Rate for 16-17 year olds and 18-21 year olds, and different age limits for Apprenticeship exemptions. These arrangements were abolished with the introduction of the Employment Equality (Age) Regulations (Age Discrimination), following which the UK changed their categories to remove the age discrimination element. As a result they have been simplified and the following rates now apply:

<u>Category</u>	<u>Current rates</u>	<u>Rates from October 2007</u>
Adult Rate (age 22 and over)	£5.35	£5.52
Development Rate (18-21)	£4.45	£4.60
Development Rate (16-17)	£3.30	£3.40

- 4.4 The adult minimum wage rate in Jersey applies from 18 yrs of age, whereas in the UK the adult rate applies from the 22nd birthday. The UK Low Pay Commission has recommended a reduction from 22 to 21 as the overwhelming majority of 21 year olds already earn over the current UK minimum wage and therefore the impact on employers is likely to be minimal.
- 4.5 Information available to the Industrial Relations Service, which has been provided in confidence by employer organisations, and additional information collected by the advisory service, indicates that employees aged 18 and above are already paid in excess of £5.40 in Construction, Retail, and the Motor Trade. In the horticulture and hospitality sectors, the evidence suggests that with some exceptions (mainly, but not exclusively, ‘guest workers’), these industries also pay in the region of £5.40 to workers over 18.
- 4.6 This suggests that, if the Guernsey minimum wage is set at a similar level to the UK, Jersey, and the Isle of Man, that is in the region of £5.50 per hour, it is unlikely to have a significant effect on local employers and employment.

Younger Workers

- 4.7 Young Workers rates are used in other jurisdictions as a protective measure to ensure that they are not priced out of the labour market or encouraged to put aside educational opportunities prematurely, and, at the same time ensuring that they are valued members of the workforce.
- 4.8 The Department believes that some flexibility in this area should still enable employers to recruit Young Persons as school leavers and pay them a rate commensurate with their developing knowledge and experience, but below the Adult Rate.
- 4.9 The current rate for workers under 18 in Jersey is £ 4.05 per hour and in the UK it is £ 4.45 for (18-21) and £3.30 for (16-17).

Recommendation

- 4.10 Having considered these issues, the Commerce and Employment Department concluded that the best way forward would be to draw on a practical combination of both the UK and the Jersey systems.

4.11 Recognising the trend towards a lowering of the age for the adult rate elsewhere, the Department recommends that the States approve:-

An Adult Rate from age 19, and

A Young Persons Rate from statutory school leaving age up to and including the age of 18.

That legislation should be drafted to allow those categories to be changed in the future.

5. Should Minimum Wage Rates Apply to Apprentices?

- 5.1 Excluding all apprentices from the minimum wage legislation would maintain the incentive for employers to offer apprenticeships to young people.
- 5.2 However, the position is less clear when it comes to adult apprentices who might wish to re-skill after having worked for a number of years in some other employment. If they were excluded from the minimum wage provisions, and employers only offered lower wages, this would discourage older people from improving their skills and ultimately increasing their earning capacity.
- 5.3 The UK recognised this problem and have amended their Minimum Wage Law so that adult apprentices are only excluded from the statutory minimum wage for the first year of their apprenticeship period. This arrangement encourages those who wish to take up an apprenticeship later in life (which may of course only be in their early twenties), ensuring that they move to the appropriate adult rate from year two onwards. However, employers would not have to pay the minimum wage during the first year of the apprenticeship, whilst the apprentice is 'learning the basics'.

Recommendation

- 5.4 The Commerce and Employment Department recommend that the minimum wage provisions exempt Apprentices aged under 19 from the protection of the minimum wage legislation, but that Adult Apprentices aged 19 and over commencing their apprenticeship, should only be excluded from the protection of the Law for the first 12 months of their apprenticeship.**

6. Provisions for Sheltered Work Schemes and 'Therapeutic' Work

- 6.1 Guernsey has a number of sheltered work or supported employment schemes provided through the Social Security and Health and Social Services Departments. The schemes provide for assisted return to work after a long absence for those who find it difficult to find permanent employment, for example through ill health.
- 6.2 In addition, there are schemes that provide therapeutic work for those who may otherwise find it difficult to find work, as, on a purely financial basis, it would not be viable for an employer to employ them. Often, these individuals are placed with an employer and the States, through various initiatives, contributes to, or subsidises their earnings through various initiatives or by maintaining their benefit payments.
- 6.3 Similar opportunities for supported employment are provided through charitable organisations such as Grow Limited and Commerce and Employment would not

wish to see minimum wage legislation put these schemes at risk.

- 6.4 These schemes have a valuable function in reducing the number of people on benefit by encouraging them, through “on the job” training, to improve their employability in the long term. Some schemes working with charitable organisations, allow individuals to develop their self-esteem, giving them an opportunity to make a permanent and positive contribution in society.
- 6.5 Discussions with the Manager of Grow Ltd, and with the agencies who work closely with this group and who co-ordinate the States’ multi-department efforts, indicate that a minimum wage is unlikely to have an adverse affect. The various schemes in place attempt to maintain remuneration either through pay, or a combination of pay, supported allowances, and social benefit payments, at a rate commensurate with the ‘rate for the job’.
- 6.6 Those employed on the purely ‘therapeutic’ arrangements with Grow Ltd and the States Interworks Services, will not be classed as ‘employees’ or ‘workers’, and will be excluded from the minimum wage legislation and continue to receive the same payments and benefits as they do now.
- 6.7 Those employed with Grow Ltd and on the States Supported Employment Schemes will be classed as ‘employees’ or ‘workers’ and subject to the minimum wage legislation.
- 6.8 The Commerce and Employment Department would not wish to make recommendations to the States which are likely to compromise these very positive and important initiatives and services provided by the States or charities. It is essential that these social services continue to provide meaningful working opportunities for those who need it most.
- 6.9 The States’ policy on paying these people ensures they are already within the scope of any likely minimum wage rates. It is unlikely that unless the States policy changes in the future, any further provisions for these specialist groups will need to be included in the legislation.
- 6.10 Restricting the scope of the legislation to ‘employees’ or ‘workers’ will ensure that there is no change for those purely carrying out tasks for therapeutic purposes.

Recommendation

- | |
|--|
| 6.11 The Commerce and Employment Department recommends to the States, that the minimum wage legislation apply only to ‘employees’ or ‘workers’ as defined in the Law. |
|--|

7. Accommodation and Food Offsets

Accommodation and Food

- 7.1 'Offset' is the phrase used in minimum wage legislation in other jurisdictions, where the legislation places a restriction on the amount that an employer can claim against the calculation of the minimum wage, where accommodation and food are provided as part of the employment package.
- 7.2 As an illustration, although not directly related to minimum wage, the following example shows how, if not protected by legislation, an employer can 'manipulate' the pay to increase the deductions against the increase in wages to leave the employee worse off. This could easily be applied to counter the effects of the minimum wage unless the legislation provides protection.

An Actual Example in respect of "offsets"

	2005	2006
Hours contracted	48	60+
Wage basic	£230.00	£230.00
Food cost	£25.00	£30.00
Accommodation cost	£12.50	£30.00
Pay (excl I/T & SSA Deductions)	£192.50	£170.00

2005 Hourly rate = £4.01

2006 Hourly rate = £2.83

- 7.3 There was support through the public consultation process for an 'offset' covering accommodation and food, with both employers, trade unions, and staff representative groups offering a similar level of support.
- 7.4 Both Jersey and the UK consider that 'offsets', which introduce a ceiling for these costs, are necessary to ensure that when a minimum wage is introduced, the employer does not abuse the process by paying the minimum wage and then increasing the cost of accommodation (and food in Jersey) to recover the increase, negating the effect of the wage increase for the employee and putting more money in the employer's pocket.
- 7.5 The UK and Isle of Man do not include an offset for food, but Jersey does. The UK decided not to introduce an 'offset' for food as their research indicated that although many employers provided food, very few employees took up the option in practice. The Low Pay Commission believed there was no real value to the employee in staff meals and thus this was left to the employer and the employees to agree as regards its provision and consumption.
- 7.6 The current UK rate for accommodation offset is £29.05 per week. From 1st April the Jersey rate will be £59.10 for accommodation and where food is also

provided £78.80. As a guideline, evidence obtained by Industrial Relations from current contracts of employment and payslips, suggests that Guernsey employers charge their employees between £40 and £80 per week for accommodation, depending on the industry and the quality of the accommodation provided. It appears from the information available that few local employers make a deduction for food, but where they do, it is in the region of £20 per week.

Recommendation

- 7.8 The Commerce and Employment Department concluded that in order to avoid exploitation of the minimum wage legislation, an accommodation and food offset should be included in the minimum wage legislation, with the maximum amount being set by the Department, following the same consultation process described earlier in this report for setting and reviewing the minimum wage rates. Consultation would be simultaneous to avoid duplication of work.
- 7.9 As regards the 'offset' for food, the Department is of the view that the provision of food should be a matter for agreement between the employer and employee, who should have a choice as to whether they accept and are willing to pay for food, should it be available. If the employee does not wish to be provided with food, they should have the option in law to 'opt out'. Employers will be required to specify under the minimum wage legislation how much they deduct for accommodation and how much they deduct for food to ensure the employee does not lose out.

7.10 The Commerce and Employment Department recommend the States approve the inclusion of provisions for both an 'Accommodation Offset' and a 'Food Offset' in the minimum wage legislation, but that staff may explicitly opt out of the employer's food provision if they wish.

8. Benefits in Kind

- 8.1 In the UK, and the Isle of Man with the exception of accommodation, benefits in kind such as meals, luncheon vouchers, fuel, car, employer contributions to a pension scheme, medical insurance, assistance with removals etc, are not covered by the minimum wage legislation. In Jersey, with the exception of accommodation and food, benefits in kind are not covered by the minimum wage legislation.
- 8.2 The inclusion of benefits in kind will make the administration and enforcement of minimum wage legislation more complicated and difficult to administer.

Recommendation

- 8.3 The Commerce and Employment Department concluded that in order to keep the legislation as simple as possible to apply and administer, and to ensure that the application of the legislation is consistent with other jurisdictions, benefits in kind should be excluded from the minimum wage legislation

8.4 The Commerce and Employment Department recommend the States approve the exclusion of ‘benefits in kind’ from the definition of ‘wages’ in the minimum wage legislation.

9. What Constitutes ‘Wages’ for Minimum Wage Purposes?

9.1 In order to be implemented effectively, it is important that the legislation covers the range of different methods of working hours practices and methods of remuneration.

9.2 Any proposed legislation should include provisions to determine the hourly rate of workers within the scope of a pay reference period. This is particularly important where workers do not work salaried hours but ‘piecework’; or where their remuneration varies through different rates for different parts of their work; or the pay changes at different times of the day, week, or year or different circumstances.

9.3 In addition, there are often occasions where workers may not be paid e.g. rest breaks, holidays, sick pay, maternity leave or perhaps when involved in industrial action. An example is ‘sleeping time’, which for some care assistants in a residential home is a period during which they may not be paid. The legislation should ensure that these arrangements are considered in the calculation of ‘hours that count’ towards the minimum wage calculations.

Recommendation

9.4 The Commerce and Employment Department concluded that it is important for the legislation to define clearly the circumstances where working time does, or does not count for the calculation of the minimum wage.

9.5 The Commerce and Employment Department recommends the States approve minimum wage legislation which is widely drafted and sufficiently clear, to include the more unusual working practices and payment methods, and defines the hours that will count towards the minimum wage calculations.

10. Tips and Gratuities

10.1 Although rarely, if ever, the major part of the remuneration of staff, tips and gratuities and the payment of service charges, can be of some significance to “pay”, particularly in some lower paid employment. It is important therefore that a clear system is in place to deal with these when determining the minimum wage.

10.2 Discussions with the Low Pay Commission and the Jersey Employment & Social Security Inspectors concluded that to keep administration and

enforcement as simple as possible, only tips, gratuities, or service charges, which are paid by the employer to the workers through the payroll, should count towards the minimum wage.

- 10.3 Tips and gratuities paid directly to the worker by the customer and kept by the worker, would not count. However, if tips are collected centrally and divided amongst the staff at the end of the day or week, then these payments will count for minimum wage purposes.
- 10.4 A similar criterion is already applied by Guernsey Social Security in determining social security liability and, if applied to the calculations for minimum wage purposes, should cause employers no additional administrative burden. Social Security legislation already requires employers to keep records on how centrally collected tips are distributed.

Recommendation

10.5 The Commerce and Employment Department recommends that only tips, gratuities and service charges, that are administered and paid by employers through the payroll, or distributed through the employer, should count towards the minimum wage.

11. Investigation

- 11.1 In order to be effective and credible, the Minimum Wage Legislation will need to be regulated and enforced in a way that is fair, but also firm. There needs to be a process for ensuring that;
- Sufficient records on pay and hours worked are maintained.
 - Records are kept for inspection.
 - There is a process for investigating suspected infringements.
 - There is a system for the restoration of pay where the minimum wage has not been paid.
 - Offenders can, in the last resort, be prosecuted.

A Pro-active approach to Enforcement

- 11.2 The UK and Jersey regulate the minimum wage in what could be termed a pro-active way through the existing inspectorate mechanisms (Revenue & Customs in the UK and Employment & Social Security in Jersey). Inspectors actively seek out and target employers to identify those who are non-compliant. In addition, they respond to specific complaints from individuals who believe they are not being paid the minimum wage. There follows a series of investigations

and the Law provides powers for:

- Inspectors to enter premises.
- Employers to keep records of pay and hours worked.
- Employers to produce records.
- Inspectors to issue enforcement notices.
- Penalties for failure to comply with enforcement notices.
- Ultimately, prosecution for various offences under the Law.

A Re-active Approach to Enforcement

- 11.3 Using this approach, instead of the relevant enforcement officers actively seeking out employers who may be breaking the Law, enforcement officers would only respond and commence an investigation where information was provided that an employer may not be complying with the Law.
- 11.4 The re-active approach represents a much more ‘light touch’, but where there is a suspected infringement of the Law, the enforcement officers would then follow exactly the same investigatory process as outlined above for the Pro-active method.
- 11.5 Responses from the public consultation demonstrated mixed views on enforcement with similar numbers supporting each method. 17 indicated support for Pro-active enforcement, 14 for Re-active enforcement and 3 supporting both. 12 did not express a view either way.
- 11.6 In reality, the legislation will require the same powers and protections from either a pro-active or reactive approach. The only difference is whether the Department responsible for enforcement actively seeks out those who may be in breach of the Law, or whether the Department only responds to allegations received.
- 11.7 Commerce & Employment is committed to enforcing the minimum wage legislation in circumstances where there are ‘reasonable grounds to suspect’ that an employer may not be complying with the Law. In circumstances where the Department has been ‘tipped off’, the investigation, compliance and enforcement process will be activated.
- 11.8 Whichever approach to enforcement is adopted as the guiding approach, it is important to emphasise that the operational focus will be on a process of seeking compliance, rather than prosecution.

- 11.9 If the States were to approve the Re-Active approach, then the legislation could be drafted to include powers for the Industrial Relations staff at Commerce and Employment to investigate any infringements and follow a process of issuing enforcement notices, with the ultimate powers to refer the matter to the Law officers for prosecution, for failure to comply with the Law or the investigation process.
- 11.10 Regulation and enforcement could be achieved by amending The Conditions of Employment (Guernsey) Law, 1985 in order to strengthen the recording of hours of work though the contract of employment and the payslip, or by including express provisions in the Minimum Wage law.
- 11.12 The minimum wage legislation could also include similar powers of enforcement to those contained in Section 10A of The Conditions of Employment (Guernsey) Law, 1985 and similar powers to issue enforcement notices and report resultant offences, as those contained in the Sex Discrimination Ordinance 2005.

Recommendation

- 11.13 The Commerce and Employment Department concluded that the best approach to adopt when bringing in this legislation is the lighter touch of the 'Re-active' approach. However, when a suspected breach of the minimum wage is brought to the Department's attention, a re-active approach will still provide sufficiently robust procedures with the initial emphasis on compliance, but with the ultimate risk of prosecution if the employer fails to comply.

11.14 The Commerce and Employment Department recommends the States approve a regulation and enforcement process, similar to the provisions contained in The Conditions of Employment (Guernsey) Law, 1985 and The Sex Discrimination (Employment) (Guernsey) Ordinance 2005.

12. Remedies and Enforcement

- 12.1 The investigation procedures outlined above will deal with any suspected breaches of the minimum wage legislation. However, in circumstances where an employee knows or believes they have not been paid the minimum wage, there must be a mechanism that enables the matter to be dealt with and put right.
- 12.2 In the UK, the Isle of Man, and Jersey, employees can make a complaint to an Employment Tribunal (or the Civil Courts). The Tribunal (or Court) will then look at the claim in the light of the evidence produced and make a decision and sometimes an award, requiring the employer to pay the employee what is owed. These cases do not always need a full investigation, as they are often in practice a dispute over the 'facts of the case' and the interpretation of the legislation and how the employer calculated the pay.

- 12.3 If the employer has paid less than the statutory minimum wage, the Court or Tribunal will then award the employee the amount of money underpaid. In addition, the Court or Tribunal could issue the employer with an enforcement notice to ensure future compliance.

Recommendation

- 12.4 The Commerce and Employment Department believes that these disputes could be dealt with in Guernsey through the existing Employment & Discrimination Tribunal. The Tribunal Panel would need training on the 'jurisdiction' of the new legislation and the majority of claims could be dealt with through existing procedures.
- 12.5 The advantage of using and extending the scope of the existing Tribunal process, is the provision of statutory 'conciliation' through a fully trained Conciliation Officer, to try and encourage the parties to reach an agreed settlement, (which may be the withdrawal of the complaint), without the need to go to a full hearing or the civil courts.

12.6 The Commerce and Employment Department recommends the States approve that complaints of non-payment of the minimum wage can be referred to The Employment & Discrimination Tribunal.

13. Protection for Employees making a Complaint Against their Employer

- 13.1 As with any employment protection legislation, there is always a risk that an employee will suffer a 'detriment' be 'victimised' or 'dismissed' for bringing a complaint against their employer under minimum wage legislation. It is well established in many other jurisdictions (including the UK, the Isle of Man, and Jersey) that employees need to be protected when exercising their statutory rights and should not feel 'threatened' when making a legitimate complaint.

Recommendation

- 13.2 Such protection already exists in local employment legislation (Employment Protection Law and the Sex Discrimination Ordinance), which protects against suffering a 'detriment', 'victimisation' and 'dismissal' for 'asserting a statutory right'. Although the protections exist, there have been very few complaints (less than 5) since the first piece of employment protection legislation was introduced in 1999.

13.3 The Commerce and Employment Department recommend that the minimum wage legislation should:

- **provide protection for employees who 'assert their statutory rights' from suffering a detriment, victimisation and unfair dismissal; and**

- **provide an opportunity for the employee to make a complaint to the Employment & Discrimination Tribunal with awards/compensation in line with those already in existence for detriment (3 month's pay), victimisation (3 month's pay) and unfair dismissal (6 month's pay).**

14. Resource Implications

- 14.1 Provided that the States approve the enforcement provisions recommended earlier in this report, and, as is expected, the number of investigations required is reasonably low, it is not anticipated that additional staff resources or an increase in budget will be required to administer the minimum wage legislation.
- 14.2 Even if there is a temporary, initial flurry of investigations whilst the legislation 'beds in', employers should soon become aware of their obligations. There is a risk that some employers may try and evade minimum wage regulations in which case the need for additional staff and budget may need to be reviewed. The Department believes that this is a low risk.

15. Consultation

- 15.1 Prior to the preparation of this report, a public consultation was carried out which resulted in 46 responses from groups representative of employers, employees, the legal profession; a number of private individuals and States Members also responded.
- 15.2 Commerce & Employment has consulted:
- The Social Security Department
 - The Director, UK Low Pay Commission
 - Staff at the Jersey Employment & Social Security Department
 - Members of the Jersey Employment Law Forum
 - The Industrial Relations Officer, Isle of Man
 - The Manager Grow Ltd
 - The Manager States Interworks Services.

16. Summary of Proposals

The Commerce and Employment Department recommend that the States approve Minimum Wage Legislation which:

- (a) Aims to eliminate the worst cases of financial exploitation in employment.
- (b) Makes provision for setting the initial minimum wage rate, and reviewing and updating it annually, in accordance with the process outlined in section 3 of this report.
- (c) Includes an Adult rate from age 19.
- (d) Includes a Young Persons Rate from statutory school age up to and including the age of 18.
- (e) Includes an exemption for Apprentices aged under 19 from the protection of the Law.
- (f) Includes an exemption for Apprentices aged 19 and over from the protection of the Law for the first year of the apprenticeship.
- (g) Applies to 'employees' or 'workers' as defined in the Law.
- (h) Includes an 'Accommodation Offset' where the employer provides the accommodation and; the amount of the Offset should be determined by the same process as that used for determining and reviewing the minimum wage rates.
- (i) Includes an 'Offset' where food is provided by the employer, but, include the right to 'opt out' of taking meals, with pay being adjusted accordingly.
- (j) Excludes 'benefits in kind' from the minimum wage legislation.
- (k) Is sufficiently widely drafted to cover the more non-standard working practices and payment methods, and defines the hours which count towards the minimum wage calculations.
- (l) Provides that only tips gratuities and service charges administered and paid by employers through the payroll will count towards the minimum wage calculations.
- (m) Includes a regulation and enforcement process, similar to the provisions contained in section 10. A of The Conditions of Employment (Guernsey) Law, 1985 and The Sex Discrimination Ordinance, 2005.
- (n) Includes provisions for complaints of non-payment of the minimum wage should be referred to The Employment & Discrimination Tribunal.
- (o) Makes provision for the protection for employees who 'assert their statutory rights' from suffering a detriment, victimisation and unfair dismissal; and,

- (p) Provides an opportunity for the employee to make a complaint to The Employment & Discrimination Tribunal, with awards/compensation in line with those already in existence e.g.

- for detriment (3 month's pay),
 - for victimisation (3 month's pay) and
 - unfair dismissal (6 month's pay).

17. Recommendation

The Commerce and Employment Department recommends the States to approve the proposals for minimum wage legislation as set out in this report and to direct the preparation of such legislation to give effect to the States Resolution.

Yours faithfully

Stuart Falla
Minister

APPENDIX 1**STATISTICAL INFORMATION BY QUESTION NUMBER EXTRACTED
FROM THE RESPONSES TO THE MINIMUM WAGE QUESTIONNAIRE****Responses to the Questionnaire**

Q.1. Should there be a Minimum Wage in Guernsey?

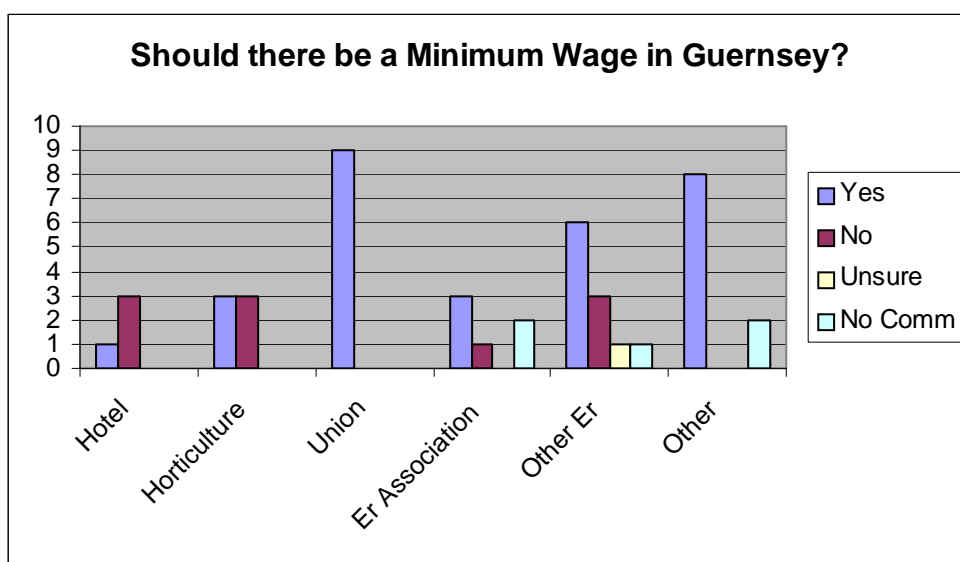
30 said Yes

10 said No

1 was unsure

5 did not comment

A breakdown of the industry sectors and organisations can be seen on the Bar Chart.



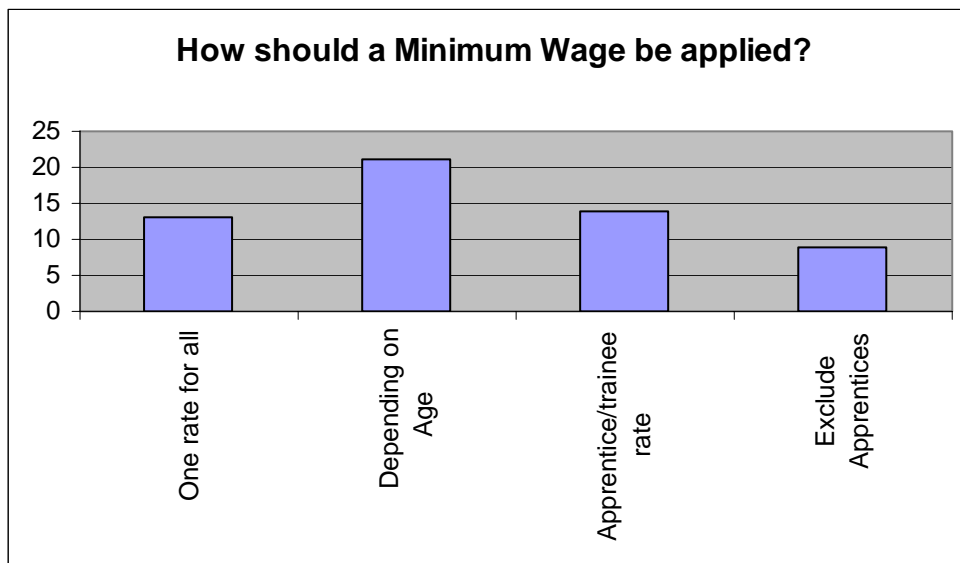
Q.2. How should a Minimum Wage be applied?

12 said one rate for all

21 said rate should be dependent on age

14 said there should be an apprentice/trainee rate

9 said Apprentices should be excluded

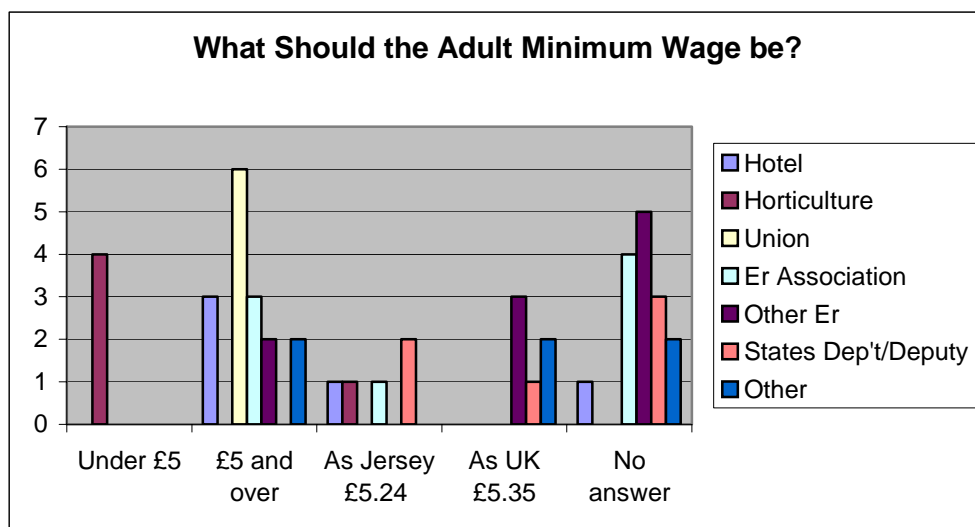


Note: where a respondent expressed a view in more than one of the 4 categories, offered in the questionnaire, these responses have been recorded in both categories in the above summary.

Q.3. What should the Adult Minimum Wage Be?

- 4 said under £5 (The lowest was £3.60)
- 16 said over £5 (The highest was £7.50)
- 5 said the same as Jersey (£5.24) (Note: £5.40 from 1st April this year)
- 6 said same as UK (£5.35)
- 15 gave no answer

Note: The current adult rate (over 18) in the Isle of Man is £5.40.



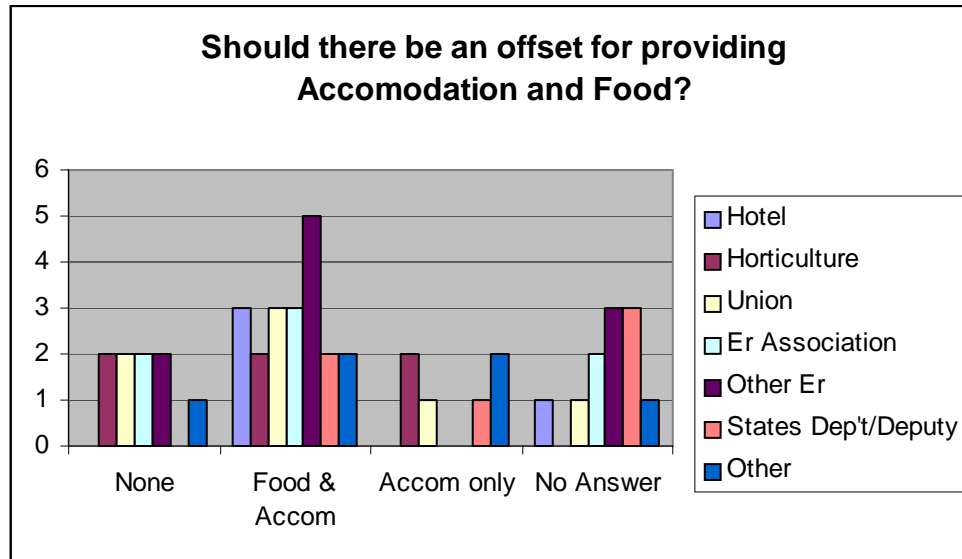
Q.4. Should there be an Offset for providing Accommodation and/or food?

9 felt there should be no Offset

20 felt that there should be an Offset for Accommodation and Food

6 Felt the Offset should apply to Accommodation only

11 did not answer



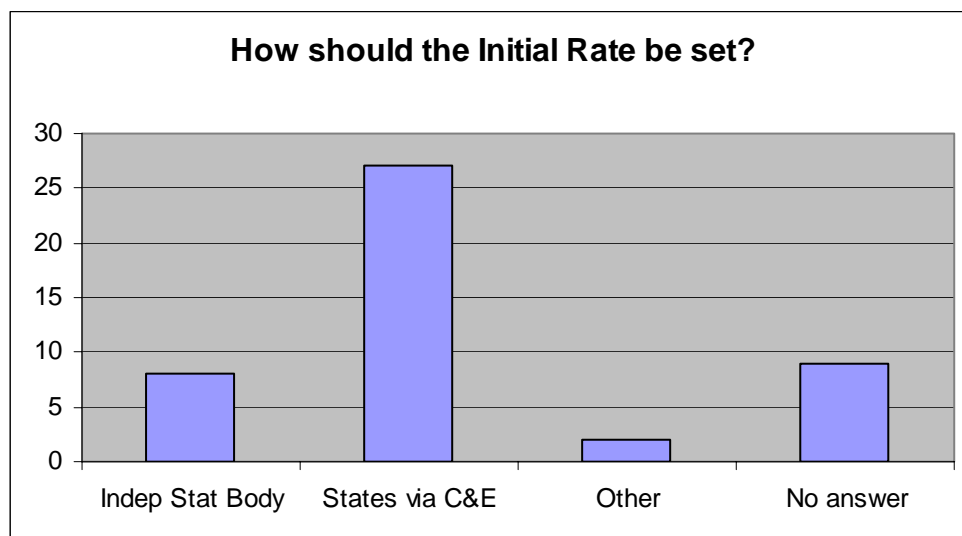
Q.5. How should the initial rate be set?

8 said by Independent Statutory Body

27 said by the States on recommendation from Commerce and Employment after consultation

2 said by other means

9 did not express a view



Q.6. How should the rate be adjusted in the future?

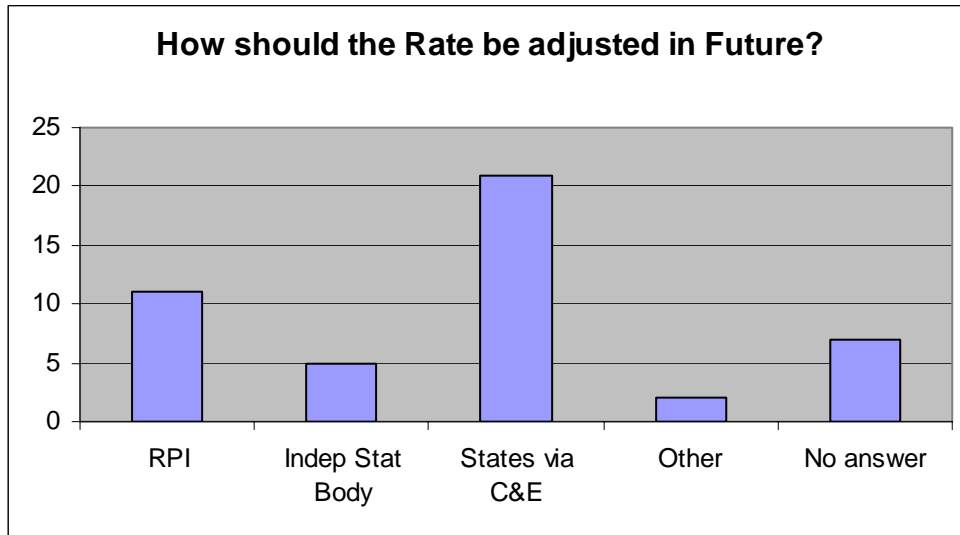
11 said by applying an RPI rise

5 said by Independent Statutory Body

21 said by the States after recommendation by Commerce and Employment after consultation

2 said by other means

7 did not express a view



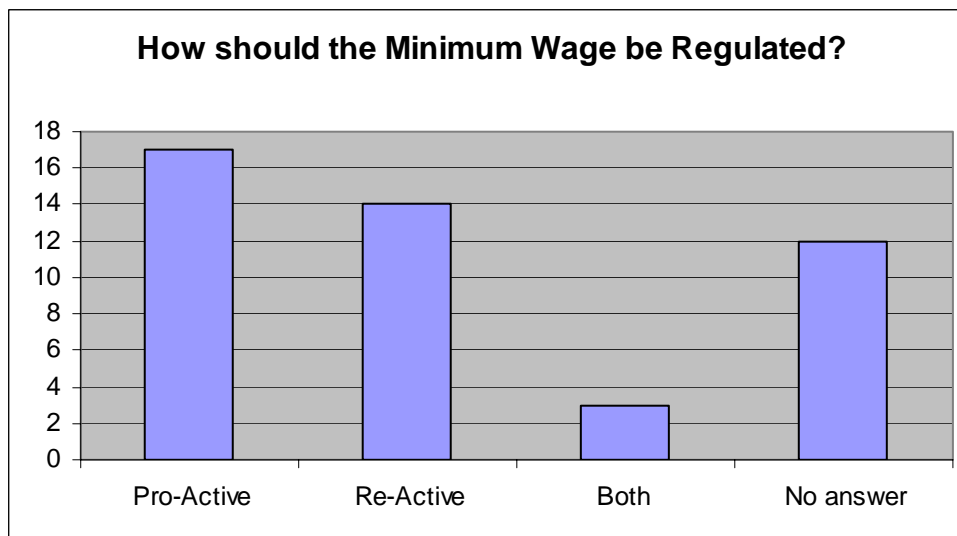
Q.7. How should the Minimum Wage be regulated?

17 said Proactively (Through Social Insurance/Income Tax Inspectors etc.)

14 said Reactively (Through Commerce and Employment following up on complaints)

3 said both Proactively and Reactively (Both systems complimenting each other)

12 did not express a view



(NB By a majority, the Policy Council supports the proposals.)

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

The States are asked to decide:-

IX.- Whether, after consideration of the Report dated 28th August, 2007, of the Commerce and Employment Department, they are of the opinion:-

1. To approve the proposals for minimum wage legislation as set out in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOME DEPARTMENT

REVIEW OF GAMBLING LEGISLATION

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

29th August 2007

Dear Sir

1. Executive Summary

The purpose of this Report is to seek States approval for a wide range of proposals which seek to modernise and regularise the Island's gambling legislation.

The proposals follow an extensive review of all types of gambling activity licensed and regulated by the Department and detailed consultation with other States Departments, licensed bookmakers and Crown and Anchor licensees and the general public.

The Report recognises that the whole nature of gambling has changed dramatically since the Island's current gambling legislation was introduced in the early 1970s and that, for many, gambling is now regarded as a leisure activity. The Report's recommendations recognise this changing attitude and the ease with which somebody wishing to gamble can access such activities with the continuing need to ensure that children and vulnerable adults are appropriately protected from any negative impact, including debt and addiction.

The proposals include some twenty seven separate recommendations ranging from how the gambling legislation should be framed to the controls which should be in place to regulate small not-for-profit or charitable raffles. The Department is recommending the existing gambling legislation be repealed and replaced with new enabling legislation to ensure that the key priorities are at the heart of all gambling activities which are made lawful under the law and to ensure that there is a proportionate and appropriate regulatory régime to oversee it, namely:

- To keep gambling crime free and ensure that gambling operators are subject to rules on money laundering and financial probity;
- To ensure that gambling is fair and transparent;
- To protect children and vulnerable adults.

Further, the Department is recommending that responsibility for issuing bookmaker and Crown and Anchor licences is transferred from the Department to the Royal Court. It believes that this approach will provide a greater degree of transparency and will also afford the Royal Court with powers to vary, amend, suspend or revoke those holding gambling licences where there is evidence that the licence is not being exercised in accordance with the overriding principles.

The Department's recommendations include the introduction of codes of practice for bookmakers to ensure that they do not become a vehicle of money laundering or any other form of financial crime and carry out their business in a socially responsible manner. The Department believes that such Codes of Practice are essential to ensure that the three key priorities are achieved.

Further, the Department makes a number of recommendations to reduce the level of administrative bureaucracy in relation to small not-for-profit or charitable lotteries and other fund-raising activities which involve a gambling element. The Department's proposals seek to ensure that the money "bet" by those wishing to support the charity or good cause through such a game of chance reaches the charity or good cause with only a nominal sum being paid to the Department in respect of regulating the game of chance.

The Report also recommends that, in light of CI Traders decision not to proceed with the casino licence, the Guernsey Gambling Control Commission Law, 2001 be amended to allow for the Guernsey Commission to be suspended until a given date or until the suspension was lifted by a further Ordinance. It further recommends that the current Chairman and Commissioners not be re-appointed or replaced when their current terms of office expire on 30th November 2007.

Finally, although outside the scope of the review, the Report includes an update on the progress of the discussions the Department has had with Alderney's Policy and Finance Committee, the Commerce and Employment Department and HM Procureur following the publication of the Commerce and Employment Department's Briefing Paper outlining how the Bailiwick is benefiting from the developing and maturing eGambling market across the globe which sets out the opportunities for increasing those benefits and achieving the objectives of the zero-ten strategy.

2. Background

In December 2004 the Department agreed to undertake a full review of the Island's gambling legislation as it was conscious that no systematic review had been undertaken since the then States Gambling Investigation Committee had completed its work in the early 1970s. It established a small Working Group ("the Group") to progress this review.

As has been variously highlighted in previous discussions society's view on gambling has changed dramatically in the intervening 30 years, not least that it is now easy to place bets via the internet, satellite television channels, etc with agents outside the

Island. Therefore, the Island's legislation appears considerably out of step with the wider society in which we live.

The Home Department believes that there is merit in allowing locally based gambling services to develop in line with this changing technology, subject to appropriate regulation to prevent crime and protect children and vulnerable adults. Further, this approach may assist in ensuring that a greater proportion of money which is undoubtedly being placed via on-line gaming operators remains within the Islands' economy.

The States has variously considered gambling issues and the current legislation for the gambling activities which have been made lawful locally stem from work undertaken in the late 1960s and early 1970s by the then States Gambling Investigation Committee. This Committee prepared three Policy Letters, namely:

- (a) 29th August 1969 – Control of lotteries and other gambling, etc;
- (b) 28th May 1971 – Gaming, lotteries and amusements with prizes; and
- (c) 22nd June 1972 – Betting – pool, private, on the course and off the course.

These three Policy Letters provided a valuable insight into the view of the House at that time. The recommendations within them demonstrated that gambling in the late 1960s and early 1970s was not regarded as the social activity and leisure pastime it is, in many quarters, today.

The States Gambling Investigation Committee's recommendations were therefore based on a *de minimus* principle looking to only legalize those activities which were already taking place locally.

Further, the States has supported and indeed promoted gambling through the Guernsey Lottery and then the Channel Islands Lottery. The lottery was first started in Guernsey in 1971 and in 1975 it was merged with the Jersey Lottery to form the Channel Islands Lottery.

3. UK Gambling Industry

In the United Kingdom gambling is now regarded as a legitimate social activity with large numbers of the population participating in some form of gambling on a regular basis. Further, it is a valuable source of revenue for HM Government through licensing fees and betting duties. Gambling is playing games involving chance or placing bets in the hope or expectation of winning money. Gambling takes many forms, from buying lottery tickets in a raffle to playing the football pools or betting on the Grand National to table gaming in casinos.

(a) Regulating gambling

Gambling operators are regulated by a system of licences. Licences are currently granted by the Gambling Commission for operators of casinos and bingo clubs, for larger lotteries (other than the National Lottery) and for gaming machine suppliers. From September 2007, a new licensing system will be introduced, which will also apply to betting and online gambling operators. Some key staff such as casino executives and croupiers are also personally licensed by the Gambling Commission.

As well as operating and personal licences, gambling operators may also require premises licences. These were issued by Magistrates' courts, but will be issued by local licensing authorities under the Gambling Act 2005, which came into force on 1st September 2007.

(b) Who Gambles?

The most recent figures from HM Government's Taking Part Survey (2005/06) reports this as 66%. In general, it is illegal for people under 18 to gamble, although some exceptions exist, such as pools betting, lotteries and certain low-stake fruit machines.

There is no doubt that for many people gambling is an enjoyable pastime: according to the last major national study, over half the adult population (24 million people) gamble weekly. Of those who gamble, slightly more men gamble than women (76% of men compared with 68% of women), with people aged 25–54 the most likely to take part. Overall, the rate of participation in gambling increases with household income up to around £35,000, above which it declines. Those in paid work are most likely to gamble. Bingo and lotteries are more popular with lower income households, while horse racing, private betting and casino gambling tend to increase along with income.

(c) What they gamble on

The National Lottery (regulated by the National Lottery Commission) is the most popular form of gambling, with 65% of the population buying National Lottery tickets. Next most popular are scratch-cards (22%), gaming machines (14%), betting on horse racing (13%) and football pools (9%). Only 3% of the population gamble at casinos and 3% place bets with bookmakers on events other than horse or dog races.

(d) How much they spend

The average stake bet on the National Lottery is £2.80 per week, for pools and other lotteries and raffles it is £3.00, and for bingo £7.20. Net expenditure, the amount spent minus any winnings, differs depending on the type of gambling. The proportion of people losing £5 or more each week varies, from 6% of scratch-card players to 23% of fruit machine players and 42% of people betting on dog races.

(e) Economic impact

There are approximately 3,600 bookmakers' permits and 8,800 betting office licences presently in force in Great Britain. The Grand National, traditionally horse racing's biggest event, attracts over 10 million UK viewers and another 600 million worldwide. In addition, it is estimated that some 6 million people attended racecourses annually.

(f) The future

The Gambling Act 2005 is intended to modernise gambling regulation in Britain and will come fully into force on 1st September 2007. It also provides new protections for children and vulnerable adults and brings the remote (or internet) gambling sector within British regulation, and it brings the betting industry in line with other gambling activities. The Act also allows for a controlled increase in the number of casinos, introducing a maximum of 17 new casinos, some of which can be larger than is currently allowed.

4. Review Process

The Department established a small working group, the Gambling Review Working Group ("the Group"), under the chairmanship of Deputy Guille¹ and Deputy Maindonald was the other member.

The Group approached the review with consultation, both formally and informally, as a key working principle. Before setting out any list of priorities for review it sought the views of the licensed bookmakers and Crown and Anchor licensees.

The Group believed that, at the outset, it was essential to hear from those most directly involved in the areas of gambling activity which were controlled under the existing legislation.

The Group met with the existing licensees and invited them to put forward any areas where they wished to see amendments to the existing legislation and areas where they would not wish to see any changes. It also met with representatives of a cross section of charities who support children, vulnerable adults and those experiencing debt and/or addiction problems. Finally, the group issued a consultation paper in October 2006 and the Department sent copies to all States Departments and States Members, the various Parochial Douzaines, licensed bookmakers and Crown and Anchor licensees and a wide range of other groups and organisations, including the Guernsey Association of Charities.

In embarking on the review process the Department recognized that how gambling is viewed will vary from person to person. For some all gambling should be prohibited whilst at the other end of the spectrum others believe gambling is no more harmful a pastime than playing sport or participating in other social activities. It is also conscious

¹ Deputy Guille resigned from the Department on 5th March 2007

that many charities and not-for-profit organizations, such as school PTAs, sports and social clubs and other such groups, rely heavily on low level gambling as fund raisers. The following table sets out how many private lottery licences were granted in 2006:

Private Lottery Permits Issued in 2006 by Class and Type of Organisation

	Church or Community Group	School or PTA	Social or Sports Club	Charity or Support Group	Total
Class I – no prize exceeds £1,000 in value and tickets not exceeding 20p	2	1	11	1	15
Class II – no prize exceeds £5,000 in value and tickets not exceeding 50p	1	3	0	3	7
Class III – no prize exceeds £10,000 in value and tickets not exceeding £1	2	12	14	10	38
Class IV – no prize exceeds £20,000 in value and tickets not exceeding £5	0	1	0	2	3
Total	5	17	25	16	63

5. Key Aims

The Group identified the following aims which should underlie its proposals and these were fully supported by the Department:

- To keep gambling crime free and ensure that gambling operators are subject to rules on money laundering and financial probity;
- To ensure that gambling is fair and transparent;
- To protect children and vulnerable adults.

The Department believes that these principles, which also underpin the UK Gambling Act 2005, are essential to ensure that all gambling activity is appropriately regulated to protect those most at risk from the potential harmful effects of gambling.

The Department recognises that gambling is not just an industry like any other. What can be a harmless pastime for the majority may become a terrible addiction for a few. It must therefore ensure it is properly and carefully regulated. Guernsey has relatively low levels of problem gambling and the Department is committed to ensuring that these levels are kept as low as possible through an appropriate regulatory régime.

The Department believes that the gambling industry must conduct its business responsibly and ensure that it is conducted in a manner that does not encourage repetitive play, and to ensure that it gives strong support to research the causes of problem gambling and its treatment. The Department is of the view that the proposals set out in this Report will ensure greater protection for the vulnerable minority who have problems with their gambling, by requiring all gambling operators to act in a socially responsible way.

The proposed Codes of Practice (see Section 7.h. and Recommendation 18) will provide the central plank to the proposed new regulatory régime. They will require all licensed gambling operators to:

- Act to protect children and vulnerable people from being harmed or exploited;
- Keep out crime from gambling;
- Ensure that gambling is conducted fairly;
- Have measures in place to enforce compliance; and
- Ensure that gambling operators are subject to rules on money-laundering and financial probity.

6. Underlying Principles

In addition the Department supported the following four principles identified by the Group as important factors which should be reflected in its proposals:

- (a) Increase regulation and scrutiny of commercial gambling and betting activities;
- (b) Reduce bureaucracy and cost for charitable (not-for-profit) gaming, lotteries and raffles;
- (c) Ensure fees reflect the commercial value of the licence;
- (d) Provide support for those affected by gambling addiction, debt, etc.

7. Proposals and Recommendations

The Group identified fourteen areas of gambling and made some twenty seven proposals and these are set out below, together with the Group's original proposal and the Department's recommendations following consideration of the comments submitted during the consultation process.

In agreeing the proposals to be included in the consultation paper the Department was mindful of the potential for income which a well-regulated gambling industry can generate both directly in the form of licensing fees and indirectly through employment.

However, it also recognised that gambling could be used by criminals to launder money and therefore any relaxation of the Island's gambling legislation needs to balance the potential for income generation with the need to maintain a robust anti-money laundering stance to protect the Island's reputation and, in particular, the financial service industry.

a. *Charitable / Not-for-Profit Gaming, Lotteries and Draws*

The Department noted that the current legislation places the greatest level of regulation and scrutiny on small charity draws and was unanimous in its view that this did not reflect the key aims for amending the legislation. It therefore researched how such activities were regulated elsewhere.

The research showed that in the UK local authorities maintained a simple register of charities and not-for-profit bodies, such as school PTAs which, from time-to-time, ran small raffles and other games of chance. The key features of such registration included:

- (a) Relying on the charity or not-for-profit organization to ensure that such fund-raising activities are appropriately regulated and operated;
- (b) Requiring the promoters to provide evidence to show that, where prizes are to be purchased from the ticket sales, there is evidence that the draw has been underwritten to cover any shortfall between ticket sales and the cost of the prizes; and
- (c) Requiring the promoters to provide police check certificates and appropriate evidence of support from charities.

It would appear that this approach ensures an appropriate level of protection for the charity concerned and those donating money through the purchase of raffle tickets, etc.

The registration fees vary from local authority to local authority but on average are £40 for first registration and £20 per annum renewal fee.

Further, the value of prizes is currently capped at £20,000 and the price of tickets at £5 per ticket. The Department noted that in the vast majority of cases the value of individual prizes was significantly less than £20,000.

Following a successful lottery organised by Jersey Hospice Care which offered a first prize of £1 million the Department was asked to consider whether provision could be made for similar lotteries to be offered locally.

The Department believes there is considerable merit in allowing occasional high value lotteries and considered whether it should restrict the number and/or timing of such draws. It concluded that as the likely demand for such high value lotteries would be relatively small, probably being linked to major building projects or the replacement of

very high cost specialist equipment, the market place was likely to limit the viability of such lotteries.

Notwithstanding the above, the Department concluded that it would be prudent to ensure that the legislation contained a provision for the Department to have the power to require the promoter of **any** lottery to evidence that the lottery was underwritten so that if ticket sales fell short of the number required to cover the costs of the lottery, including the prizes stipulated on the tickets, the draw would go ahead and the prizes presented to the winning ticket holders. It believes that this would provide protection for both the charity and the organisation holding the draw as well as anybody purchasing a ticket.

Finally, the Department also noted that the types of games of chance permitted were largely limited to traditional raffles, lotteries, etc and this had meant that applications for more innovative games of chance had had to be refused. It felt that such restrictions could limit fund-raising opportunities. It further recommends that these limits and the types of games of chance permitted should be subject to revision by the Department by regulation.

	Proposal in Consultation Document	Department's Recommendation
1	<i>Replace current charging system with simple annual registration fee set to cover administrative costs.</i>	Replace current system with an annual registration fee to cover administrative costs - £25 per charity per annum.
2	<i>Activities to be covered under this approach to include lotteries and draws involving tickets sold outside event, lotteries and draws involving tickets solely sold at event, cinema racing, "Casino" nights, non-commercial bingo, Donkey Derby, including "course" tote</i>	Activities to be covered under this approach to include all activities currently permitted but to also provide the Department with the power to amend the list of approved activities.
3	<i>Cap the value of an individual prize at £25,000 and tickets at £25 each and allow the Department to alter these limits and the types of games of chance permitted by Regulation.</i>	Remove the value of individual prizes and the price of tickets and permit the Department to require a lottery promoter to provide it with documentary evidence to show that the draw would take place on the date stated on the tickets and the prizes would be available regardless of how many tickets are sold and that, where appropriate, promoter be required to produce evidence that the lottery was underwritten.

b. *Gaming Machines*

The Department noted that there is currently no provision for gaming machines outside a casino facility. It further noted that there did not appear to be any pressure for their introduction locally and believed that, given the current impasse over the casino licence, the present general prohibition should remain. In reaching this conclusion the Department was mindful that use of these machines could be difficult, that is preventing persons aged under 18 from using them. It was also conscious that they could become an unwelcome fixture within pubs and clubs given their size and rather noisy operation.

	Proposal in Consultation Document	Department's Recommendation
4	<i>No change to the current restrictions.</i>	No change to the current restrictions on electronic games of chance, other than in respect of Fixed Odds Betting Terminals (see Section 8 and Recommendations 21 and 22 below).

c. *Fair-based Amusements with Prizes*

These events are largely confined to visiting fairs on Liberation Day and at the West and North Shows. The current fee is £40 per day and the value of the prize is capped at £40.

	Proposal in Consultation Document	Department's Recommendations
5	<i>Increase fees to reflect the commercial value of the permit and remove the cap on the value of prizes.</i>	Increase fees to reflect the commercial value of the permit - £100 for the licence and first day plus £75 per day thereafter - and remove the cap on the value of prizes.

d. *Football Pools*

There is currently no regulation of agents and whilst there have been no reports of abuses the Department considered it appropriate to introduce a simple system for registering such agents, which would include a police check.

	Proposal in Consultation Document	Department's Recommendations
6	<i>Introduce a registration scheme and for person nominated as "promoter" to provide police check certificate and set the registration fee to cover administrative costs that reflect the commercial benefits to licensee.</i>	Introduce a registration scheme and for the person nominated as "promoter" to provide police check certificate and set the registration fee to cover administrative costs at £50 per person per annum.

e. *Crown and Anchor*

Crown and Anchor is currently only permitted to be played at the Island's agricultural and horticultural shows, horse racing meetings and regattas. Given the huge popularity of this game of chance the Department is increasingly receiving requests from a wide cross-section of charitable events for permission to operate a Crown and Anchor table. The Department has always endeavoured to accommodate such requests but its staff are conscious that they are often required to "stretch" the definitions of those events at which Crown and Anchor can lawfully be played.

The Department was of the view that the current licence fees (£50 per annum per operator and £50 per day per table) do not reflect the true commercial value of an operator's or table permit to the licensed operators. In addition, there is little provision for regulating licensed operators, for example only limited police checks are made when a new licence is issued.

Further, the Department noted that the powers to suspend or revoke a licence are very limited under the current legislation. An operator's licence can only be revoked or suspended where the holder is convicted of an offence under the Ordinance or the Courts may revoke the licence following a conviction for an offence of dishonesty or fraud and may direct that the person cannot hold a licence for a period of up to 5 years.

The Department also noted that there are no powers to review the suitability of the person who holds a licence once the licence has been granted unless there had been a breach which resulted in conviction. The Department was unanimous in its view that this position was unacceptable and believes that provisions, broadly based on those for reviewing liquor licenses, should apply to Crown and Anchor licences.

	Proposal in Consultation Document	Department's Recommendations
7	<i>Increase fees to reflect the true commercial value to the licensed operators of holding a Crown and Anchor licence.</i>	Increase fees to reflect the true commercial value to the licensed operators of holding a Crown and Anchor licence, namely £150 per annum for the annual licence plus £100 per table per day.
8	<i>Require the licensed operators to provide an annual police check certificate.</i>	Require the licensed operators to provide an annual police check certificate.
9	<i>Introduce provisions to permit the Department to review, amend, suspend or revoke a Crown and Anchor licence at anytime if there are serious grounds for concern about the person's suitability to operate the said licence.</i>	Introduce provisions to permit the Department to review, amend, suspend or revoke a Crown and Anchor licence at anytime during its operation if there are serious grounds for concern about the person's suitability to operate the said licence.

f. *Bingo*

The Department noted that currently, bingo operated only as charitable/not-for-profit ventures, is permitted but that such ventures were very popular. It further noted that whilst these activities were unlicensed and largely unregulated, no complaints had been recorded.

The Department noted that when considering proposals for amending gambling legislation Jersey had rejected the introduction of commercial bingo. The Department concluded that in the light of the popularity of current bingo nights and the potential for significant licence fees if Gala or the like were attracted to the Island further investigation into the benefits and costs of introducing commercial bingo locally should be undertaken.

Further, it believes there is merit in introducing a system for regulating and registering the current operators but recommends that the level of regulation reflects the fact that these activities have operated for many years without problems arising.

	Proposal in Consultation Document	Department's Recommendation
10	<i>Introduce a registration scheme and for person nominated as "promoter" to provide police check certificate and set the registration fee to cover administrative costs that reflects the commercial benefits to licensee.</i>	Introduce a registration scheme and for the person nominated as "promoter" to provide police check certificate and set the registration fee to cover administrative costs at £50 per person per annum.
11	<i>Undertake a detailed cost/benefit analysis of the viability for introducing commercial bingo locally.</i>	The respondents to the review showed little enthusiasm for the introduction of commercial bingo. Therefore the Department recommends that no further work is undertaken in this area at this time.

g. *Commercial On-Course Betting*

After a long break horse racing recommenced in 2005 and has proved to be hugely popular. The Department noted that on the course betting would appear to be equally very profitable for the licensed bookmakers involved, especially when the fee for an on-course licence is just £40 per day. It was noted that the equivalent fee in Jersey is substantially higher at over £300 per day.

In 2006 the Department increased liquor licensing fees fivefold, that is, a general licence was increased from £100 to £500. However, it should be noted that the fivefold increase also closely matched an inflation linked increase since those fees were first set in 1960. Although the fee for an occasional bookmaker's licence has been increased

variously since 1973 they have not been increased in line with inflation. Had this been the case the fees would now be:

(a) Occasional permit - £48.35 per day

(b) Retained Deposit - £302

The Department concluded that such activities should be supported but there was a need to ensure that the licence fees reflected their commercial value. It noted that operators were required to provide police check certificates and that reports from the parochial Constables and police were required before a licence was approved. It was satisfied that the level of regulation was appropriate given the relative infrequency of such events.

	Proposal in Consultation Document	Department's Recommendation
12	<i>Increase fees to reflect the true commercial value to the licensed operators of holding an on-course and/or tote betting licence.</i>	The Department recommends the following fees: (a) Occasional permit - £50 per day (b) Retained Deposit - £300.

h. Commercial Off-Course Betting

In 1972 the States approved very limited proposals for the legalisation of bookmakers. The Gambling (Betting) Ordinance, 1973 places very tight restrictions on bookmakers and how they can advertise their business and equip their premises. These restrictions include a total ban on any form of advertising and prevent the bookmaker from equipping his premises with anything which may be regarded as making it a "comfortable" environment in which to gamble. For example, a bookmaker can only provide facilities directly related to betting, that is televisions showing actual races, a betting counter and race details. Further, in 1972 the original proposals prohibited a bookmaker from establishing their businesses in ground floor premises.

These restrictions appear to be at odds with other provisions under the law. Bookmakers are able to register any number of licensed agents to receive bets on their behalf. Licensed agents are typically licensed premises where not only can somebody placing a bet sit comfortably but can also consume an alcoholic beverage. Yet in the bookmaker's office somebody seeking to place a bet cannot lawfully be offered a glass of water.

The Department noted that changes in the UK and Jersey had seen a considerable relaxation of such restrictions which reflected the general change in attitude towards gambling. The Department was unanimous in its view that such restrictions should be removed and bookmakers be permitted to offer more comfortable surroundings and advertise their businesses. The Department believes that market forces and costs would determine the level of investment any bookmaker would be able to make and so doubted that Islanders would be bombarded with advertisements promoting the various bookmakers.

It further noted that bookmakers could not open their premises on a Sunday but, following the change in Sunday opening for licensed premises, bets could be accepted by licensed agents on licensed premises and believed that this presented an anomaly. The consultation responses showed that the respondents were either opposed to Sunday opening or expressed no firm view. Further, in its discussions with the licensed bookmakers the Department noted that there was no strong desire to open on a Sunday. The Department is therefore recommending no change to the Sunday opening restrictions.

The current number of bookmaker licences is capped at seven. It noted that whilst from time-to-time enquiries and/or applications had been received for new licences there did not appear to be a significant demand for additional bookmakers' licences.

The Department noted that currently licences are only available to local residents and there is no provision for Ladbrokes, William Hill, etc to hold or "sponsor" a licence. It noted that in Jersey many of the national bookmaker chains were now operating.

The Department accepted that the relaxation of such restrictions could result in considerable investment in the betting industry locally but that any change needed to be balanced against the ability of the current operators to compete with such companies. It concluded that further investigations should be undertaken into the benefits and costs of removing this restriction, including discussions with the current licensed bookmakers and the authorities in Jersey.

The Department noted that in the Policy Letter dated 29th August 1969 the then States Gambling Investigation Committee had proposed that,

"... any operation savouring of commercialism, that might be permitted, would be required to contribute substantially to the Island exchequer."

It was of the view that a bookmaker's licence was a wholly commercial enterprise and therefore was of the view that the licence fees should both reflect the true commercial value of the business and *"contribute substantially to the Island exchequer"*.

The current fees are as detailed below

- (a) Bookmaker's Licence - £800 per annum
- (b) Betting Office Licence - £1,600 per annum
- (c) Credit Betting Office Licence - £400 per annum
- (d) Authorised Agent - £40 per annum.

It was noted that the Department recently increased liquor licensing fees fivefold, that is, a general licence was increased from £100 to £500. However, it should be noted that

the fivefold increase also closely matched an inflation linked increase since the fees were first set in 1960. Whilst the fees have been increased variously since 1973, the increases have not been linked to inflation rates. If they had kept in line with inflation they would be:

- (a) Bookmaker's licence - £967 per annum
- (b) Betting office licence - £1,934 per annum
- (c) Credit betting office licence - £483.50 per annum
- (d) Authorised Agent - £48.35 per annum.

However, following concerns raised during the consultation process regarding the large number of places, in particular licensed premises, where bets can be placed through an Authorised Agent the Department is recommending that the Authorised Agent fee be increased to £100 per annum. It believes that the higher fee will underline the importance of those receiving bets acting responsibly, particularly where the person placing the bet may have been drinking.

Further, it was noted that licences are currently renewed annually. However, unlike the renewal of liquor licences this renewal process effectively requires a reapplication and therefore provides little assurance for business continuity.

The Department also noted that it had no power to review the suitability of the person to hold or operate the licence once a licence had been granted unless there had been a breach which resulted in conviction. It noted that the Gambling (Betting) Ordinance, 1973 only provided very limited powers for the Department to review, suspend or revoke a licence.

The Department concluded that there was considerable merit in seeking to broadly mirror the provisions under the Liquor Licensing (Guernsey) Ordinance, 2006, in respect of the granting and annual renewal of bookmaker licences and provide for the Department to be able to review, amend, add conditions, suspend or revoke a licence where it had reliable evidence indicating that the holder may not be able or suitable to properly discharge his responsibilities and liabilities.

By providing greater certainty for business continuity and a more robust approach to the regulation of licensed operators the Department believes it would be possible to ensure that the three key objectives, as outlined above, would be met. It also considered the representations from licensed bookmakers regarding their inability to "sell" their business because of the need for the Department to advertise when a licence became available. That is, there was no guarantee a potential purchaser will be awarded a licence.

The Department acknowledged these concerns but believed that a balance needed to be struck between enabling an operator to realise his investment and allowing market

forces to operate freely. It also noted that the exchange of liquor licences followed a similar pattern, although the licence was issued by the Royal Court. It therefore concluded that it could see no reason why a licensed operator should not be able to sell his business and therefore recommends the introduction of a system for provisional licences. This would allow somebody interested in becoming a bookmaker to seek a provisional licence allowing an existing bookmaker to “sell” his business and the purchaser would have some guarantee that a licence would be granted.

Finally, the Department noted that there was little provision for the regulation of licensed bookmakers. It accepted that there had been no indication that local bookmakers were either knowingly or unwittingly becoming involved in money laundering or other forms of financial crime.

The Department was concerned that some bookmakers appeared to have no proper system for recording bets from and payments to customers and that internal controls appeared minimal. It also noted that the process for recording bets placed with a licensed agent varied markedly from agent to agent. It acknowledged that few complaints from dissatisfied customers had been reported but nonetheless concluded that proper record keeping, internal controls and good managerial oversight were essential, especially if additional business opportunities were to be made available for bookmakers.

The Department is firmly of the view that to ensure that all licensed bookmakers satisfy the key principles and, in particular, the anti-money laundering and social responsibility codes of practice, these should be an explicit licence condition. That is, bookmakers will have to put into effect policies and procedures including:

- Anti-money laundering procedures which satisfy the provisions in the Bailiwick’s anti-money laundering legislation, including procedures for reporting any suspicious and/or high value cash bets.
- Measures to prevent underage and irresponsible gambling;
- The display of clear information about responsible gambling and how to get help for problem gamblers;
- The training of staff to identify and help customers who may be affected by problem gambling.
- Publishing rules on the voiding of bets, late bets, maximum payout and treatment of errors, any charges made to customers for the use of betting services and the treatment of withdrawals and non-runners;
- A complaints and disputes procedure and to keep records of disputes for the Department which must be submitted to it prior to the annual renewal of the licence.

To this end the Department will seek to require licensed bookmakers and their staff to demonstrate their understanding of such requirements. Here again the Department believes that by the introduction of a short examination on the law and the Codes of Practice should ensure that bookmakers and their staff and Authorised Agents should be required to demonstrate their understanding of and competence in responding to any suspicious transactions.

Finally, under section 49A and Schedule 2 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 200-² businesses licensed under the Gambling (Guernsey) Law, 1971 are relevant business. That is, they will have to comply with such regulations as the Policy Council may make in respect of the duties and requirements for the purposes of forestalling and preventing money laundering.

In reaching its conclusions and recommendations the Department was very conscious that it was essential that the degree of regulation on bookmakers reflected the Island's robust anti-money laundering laws. It accepted that when the current legislation was enacted in the early 1970s the concerns regarding the prevention of money-laundering and financial crime were not as high profile issues as they are today.

However, the Department recognised that, given the concerns raised in some of the responses regarding any negative impact of gambling on individuals, families and potentially the wider community it remains important to balance the needs of the wider community with the business concerns of those offering bookmaker services.

	Proposal in Consultation Document	Department's Recommendation
13	<i>Remove the restrictions on the facilities which a bookmaker can offer and permit bookmakers to advertise their business.</i>	<p>The Department concluded that market forces and planning restrictions on the size and type of signs should serve to "regulate" advertising without the need to prescribe the form for signs, etc.</p> <p>It therefore recommends that these restrictions should be removed but that the Codes of Practice (see Recommendation 18 below) should address the type of advertising which may be deemed to be "harmful" and/or encouraging harmful gambling.</p> <p>The Department can see no reason why bookmakers should not offer customers more comfortable facilities and/or refreshments.</p>

² As approved by the States at its June 2007 meeting

14	<i>Remove the restrictions on Sunday opening.</i>	The Department recommends that this restriction on Sunday trading should remain.
15	<i>Maintain the current cap on licences at 7 but allow the Department, by regulation, to increase the number of licences to a maximum of 10 if market forces demonstrate the additional demand.</i>	<p>The Department recommends the number of licences be fixed by Regulation and that the present quota of 7 be retained at present.</p> <p>Prior to any decision to increase or decrease the number of licences the Department would undertake a public consultation and would set out its reasons for proposing the change.</p>
16	<i>Permit bookmakers' licences to be held by corporate bodies registered in Guernsey and the appointment of locally resident and designated officials.</i>	<p>The Department can see benefits of maintaining the <i>status quo</i> and of allowing locally incorporated companies to hold a licence.</p> <p>On balance it concluded that the <i>status quo</i> should be retained as other proposals to amend the gambling legislation to parallel much of liquor licensing should enable bookmakers to sell their businesses as going concerns with greater ease.</p>
17	<i>Increase fees to reflect the true commercial value to the licensed operators of a bookmaker's licence and associated licences.</i>	<p>The Department recommends that annual bookmakers' fees be increased, as follows:</p> <ul style="list-style-type: none"> (a) Bookmaker's licence - £1,000 (b) Betting office licence - £2,000 (c) Credit betting office licence - £500 (d) Authorised agent's licence - £100 per agent.
18	<i>Amend the provisions for the grant and renewal of licences and provide wider powers for the Department to review, amend, add conditions, suspend or revoke a licence</i>	Amend the provisions for the grant and renewal of licences and provide wider powers for the review, amendment and addition of conditions, in line with the three key objectives: To keep gambling crime free and ensure that gambling operators are subject to rules on money laundering and financial probity, to ensure that gambling is fair and transparent and to protect children and vulnerable adults.

19	<i>Introduction of a system for provisional licences which would allow somebody interested in becoming a bookmaker to seek a provisional licence and then the existing bookmaker could “sell” the business as the purchaser would have some guarantee that the licence would be granted.</i>	See comments under Recommendation 16 above.
20	<i>Introduce an appropriate code of practice requiring bookmakers to demonstrate proper record keeping systems and internal control to ensure best practice in the management of bookmakers’ licences.</i>	<p>The Department recommends that proper record keeping is incorporated in the general Codes of Practice (see Recommendations 24 to 26 below).</p> <p>That the codes of practice are an explicit licence condition requiring bookmakers (their staff and Authorised Agents) to have policies and procedures in place to ensure compliance.</p> <p>It further recommends that bookmakers and their staff should be required to demonstrate their understanding of and competence in responding to any suspicious transactions.</p>

8. Fix-odds Betting Terminals

These types of machines have become increasingly popular across the gambling industry in the last 8 years. In 2003 the UK’s Department for Culture, Media and Sport issued the following statement on the proliferation of such machines:

“The Government has noted with concern the increasing installation in licensed betting offices of machines, described as fixed odds betting machines, which enable customers to play virtual casino games for prizes up to £50,000.

The present law allows only two gaming machines in any betting office, offering maximum prizes of £25. Under the Government's proposals for reform of the laws on gambling in Great Britain, published in “A Safe Bet for Success”, betting offices would be able to install up to four gaming machines with a maximum prize of £500. The report also noted the appearance of betting machines, pointing out that they have many of the characteristics which justify controls over gaming machines.

The Government understands that the Gaming Board for Great Britain and the Association of British Bookmakers have agreed to the bringing of a test case to

clarify the status of fixed odds betting machines under the existing law. While it would not be appropriate to comment on the merits or possible outcome of such legal proceedings we welcome any action which will bring certainty to this issue so far as the present law is concerned.

In order to make the position on future legislation clear for interested parties, I wish to confirm that the statement set out in "A Safe Bet for Success" remains the Government's current policy. Therefore, our current plan is to introduce new legislation which will be drafted in such a way that those betting machines which in reality involve gaming will be brought within the relevant controls for gaming machines. We take the view that the uncontrolled proliferation of high-prize machine gaming on the high street risks seriously increasing problem gambling."

Fixed odds betting terminals ("FOBT") are software-driven terminals, usually of about the same size and shape as a floor-standing cash dispenser. They are operated exclusively by bookmakers in betting shops. FOBT users can bet on a variety of "events" whose outcome is driven by a random number generator operated by an independent third party and located remotely. The types of events on which users can bet include representations of horseracing, greyhound racing, football penalty shoot-outs, numbers and roulette. The terminal accepts a customer's bet and displays the event and results on-screen in a format which varies with the type of event chosen.

The minimum stake on a FOBT is generally £1 for roulette and 50p for other events. The maximum allowed stake and maximum payout vary by type of event, but, in contrast to fruit machines and jackpot machines, the odds remain fixed for each event, i.e. there is no accumulation of other players' stakes to create a jackpot. Under the terms of the UK's Code the maximum stake is now limited to £15 for a single bet and to £100 for multiple bets grouped into a single transaction. The highest possible payout is £500, although because of the different odds attaching to different events and the limitation of stake, not all events will pay out that maximum.

FOBTs deliver a much higher return of stakes to punters than other forms of betting. The bookmaker's gross margin on a FOBT lies between 2 and 3 per cent, which means that between 97 and 98 per cent of amounts staked are returned to punters. They have proved popular. It is estimated that there are now some 20,000 terminals in service in approximately 8,000 betting shops.

The UK's current Code of Practice for the use of FOBTs is as detailed below:

"A maximum of four FOBT per licensed betting office. This number not to include the type of terminal used to accept traditional 'over the counter bets'. A maximum payout per single transaction of £500 and a maximum stake of £15 per bet and £100 per transaction.

To prevent potential problem gamblers from "chasing losses", the minimum cycle time between customers inputting money, selecting their bet(s) and

settlement shall be not less than 30 seconds. When customers are betting from their original stake or from accumulated winnings, the minimum cycle time for this type of transaction will be not less than 20 seconds.”

In addition the Code lays down certain obligations concerning display material relating to:

“Point of sale promotional material not to encourage excessive play.

Clear help pages to be present on all terminals, including contact information for GamCare³ and warnings on excessive gambling.

Access to help pages to be available at all times by use of button/icon.

GamCare signage and leaflets to be prominently displayed adjacent to terminals.”

In 2005 the authorities in Jersey allowed its licensed bookmakers to introduce fixed odds betting machines. However, it subsequently transpired that the Jersey gambling legislation prohibited their use and in 2007 the machines were removed from the betting offices. It has been suggested that the FOBTs were generating nearly £1m revenue per annum for the Jersey bookmakers. If the figures are correct it is clear why the local bookmakers are keen to be able to offer such machines.

The Department was not opposed to the principle of allowing FOBTs to be operated locally but were firmly of the view that if permitted they should be separately licensed and their number and the maximum stakes and payouts should be restricted and that such restrictions should be proportionate to the Island rather than simply adopting UK restrictions. However, it is concerned that the introduction of fixed odds betting terminals could result in an increase in problem gambling but equally it recognises the large number of eGambling sites means that such an argument for not permitting licensed bookmakers to install a limited number of such terminals would be difficult to sustain.

The Department therefore recommends that their introduction should be supported in principle but the final proposals should be based on more detailed study of their impact on problem gambling and the controls, including licensing and codes of practice, necessary to minimise any harmful consequences.

The Department also recommends that the licence fee should cover all the costs of regulating the terminals, including appropriate checks by qualified agents to ensure that the machine and/or its software had not been tampered with and that FOBTs be restricted to licensed bookmakers' offices and the number of terminals permitted in any one such office should be limited to two terminals. The “integrity” of the terminals themselves will need to be checked on a regular basis by an appropriately qualified agency.

³ GamCare is the leading charity supporting problem gamblers and their families and is largely funded by the betting and gaming industries.

	Proposal in Consultation Document	Department's Recommendation
21	<i>Agree, in principle, to the introduction of FOBTs but for the Department to undertake further research into an appropriate system for regulating their use, including the preparation of Codes of Practice which will be binding on licensed operators.</i>	Agree, in principle, to the introduction of FOBTs subject to consideration of the potential negative impacts of such terminals on gambling addiction. Introduce separate codes of practice and other regulatory practices as may be necessary to ensure that the terminals are not misused. To restrict the terminals to licensed bookmakers' offices and to permit a maximum of two terminals to any one bookmaker's office.
22	<i>Introduce a separate licence fee per machine which reflects the true commercial value of a FOBT to the licensed operator and covers the cost of regulation.</i>	As set out in Recommendation 21 above if such terminals are permitted there would need to be a robust regulatory régime. It is recommended that the minimum fee should be £1,000 per terminal per annum, subject to the qualifications set out above, plus the costs of any additional regulatory régime as may be required.

9. eGambling

Remote gambling or eGambling is defined as gambling in which persons participate by the use of remote communication, including the internet, telephone, television, radio or any other kind of electronic or other technology for facilitating communication.

The Department notes that the licensing of eGambling operators continues to provide a valuable source of income for Alderney and therefore is, in part, reducing the level of financial support Guernsey is being requested to provide to Alderney. It also recognised that the Alderney "brand" is highly regarded amongst other eGambling jurisdictions (and other jurisdictions) and that its regulatory régime was seen as demonstrating best practice in this industry, in particular with regard to the probity checks undertaken before granting an operator a licence and also in respect of the processes in place to prevent young people aged under 18 years from gambling on Alderney licensed sites and to prevent players from gambling large amounts of money. The Department noted that the average stake across Alderney licensed sites was about £1.50.

On 31st July 2007 the Alderney Authorities were advised that their application to be named as a country permitted to advertise remote gambling in the United Kingdom as if

it were an EEA⁴ state had been successful. The effect of being so “White Listed” is that eGambling operators licensed by the Alderney Commission can advertise eGambling services in the United Kingdom from 1st September 2007 without committing an offence under the UK’s Gambling Act 2005.

The full text of the letter from the Department for Culture, Media and Sport is set out in Appendix 2 and it concludes:

“Its [Alderney’s] current system of regulation and licensing provides a robust and adequately resourced framework to uphold the UK’s shared objectives to prevent gambling from becoming a source of crime, to keep gambling fair and open and to protect children and vulnerable adults.

Finally, I am grateful for Alderney’s sustained efforts to set high standards of remote gambling legislation. I recognise that you share this Government’s desire to take a leading rôle in raising the quality of regulation and consumer protection worldwide.”

On 9th August 2007 the Department for Culture, Media and Sport published details of the jurisdictions to be “White Listed” under section 331 of the Gambling Act 2005. The only jurisdiction to be “White Listed” alongside Alderney is the Isle of Man. To achieve “White Listing” the Isle of Man had to make significant improvements to its regulatory régime. Alderney’s regulatory régime, based on the Alderney Gambling Regulations, 2006, was accepted as satisfying the “White List” criteria without amendment. Applications from Alexander (a Canadian Reservation), Netherlands Antilles and Tasmania were rejected and those from Kahnawake (a Canadian Reservation) and Antigua are still being considered.

It is estimated that there are over 2,500 gambling websites worldwide, with the four largest eGambling jurisdictions being:

Antigua & Barbuda	537 licensees ⁵
Costa Rica	474 licensees
Kahnawake (a Canadian Reservation)	401 licensees
The Netherlands Antilles	343 licensees

The jurisdictions which have been “White Listed” or are exempt from the requirement for “White Listing” have the following number of active eGambling licensees:

Alderney ⁶	34 licensees ⁷
Malta ⁸	33 licensees

⁴ The EEA comprises all member states of the EU plus Iceland, Liechtenstein, Norway. In this case it also includes Gibraltar

⁵ Figures correct as of 1st June 2007

⁶ “White Listed” jurisdiction

⁷ Including 1 restricted use (DR) licence

⁸ Exempt jurisdiction under the Gambling Act 2005

Gibraltar⁹
Isle of Man¹⁰

15 licensees
2 licensees

The Department has concluded that the current position, that is the Alderney Gambling Control Commission (“the Alderney Commission”) acting as the licensing and regulatory body with Guernsey providing a supporting legislative framework to enable transactions to be made on servers located in Guernsey so as to overcome difficulties for Alderney’s telecommunications infrastructure to support the capacity needed to by the operators, should be maintained.

The Department fully supports the Policy Statement set out at the end of the Commerce and Employment Department’s Briefing Paper, which was issued in May 2007, namely to:

1. Ensure that the régime governing legislation includes and keeps up to date with any measures relating to anti-money laundering, prevention of terrorism, social responsibility etc. that maintains and enhances the régimes’ international standing;
2. Immediately introduce an appropriate mechanism to enable the Guernsey authorities to comment upon and, if necessary influence, policies for the application of the eGambling regulatory régime that may impact on Guernsey’s interests;
3. Consider whether specific pan Alderney/Guernsey legislation to control eGambling might be introduced in such a way that the Alderney Gambling Control Commission’s brand and value to the Alderney economy is retained whilst removing the anomaly of transactions occurring in Guernsey being regulated in Alderney.

The Department considers that current Regulations and additional legislation which already has the approval of the Alderney Policy and Finance Committee adequately addresses the first bullet point.

In respect of the second and third bullet points the Department has commenced discussions with the States of Alderney and HM Procureur regarding the most appropriate mechanism to enable the Guernsey authorities to comment upon, and if necessary influence, policies for the application of the eGambling regulatory régime that may impact on Guernsey’s interests and whether this should be achieved through specific pan Alderney/Guernsey legislation or by some other mechanism as may be appropriate.

⁹ Exempt jurisdiction under the Gambling Act 2005

¹⁰ “White Listed” jurisdiction

10. Public Lotteries

Although the Department's mandate does not include responsibility for administering any public lotteries it is responsible for the legislation to make such lotteries lawful. Currently the only lawful public lottery is the Channel Islands Lottery.

a. Channel Islands Lottery

The Channel Islands Lottery has operated on a traditional draw basis and in January 2004 a Scratch Card Lottery was introduced to replace the monthly draws. At any time two Scratch Card draws run in tandem. Each has a separate prize structure. Prizes range from a free scratch card to £20,000.

The Jersey Lottery started in the mid-1960s to assist with the funding and development of Fort Regent as a leisure and entertainment centre. The profits from the Guernsey Lottery and more recently Guernsey's share of the Channel Islands Lottery have been used to offset the costs of running Beau Sejour.

The Channel Islands Lottery is currently administered by the Culture and Leisure Department. In recent years the Lottery has seen a resurgence of sales following the introduction of scratch cards. This followed a period of decline following the introduction of the UK National Lottery. Further, the profits from the popular Christmas Draw continue to provide a welcome annual boost to Guernsey Charities with over £130,000 distributed to local charities from the 2006 draw.

b. National Lottery

Since the National Lottery commenced in November 1994 many Channel Islanders have participated in the lottery buying tickets when visiting the UK or through friends and relatives living on the Mainland.

Although the Channel Islands Lottery continues to make good progress in regaining its lost market share, the States of Jersey resolved on 2nd March 2005 to formally request extension of the National Lottery to Jersey. Guernsey's Policy Council has also agreed that this policy option should be pursued.

The reasoning supporting this move is that extension of the National Lottery would be beneficial to all parties. Subject to the agreement of appropriate terms, Islanders would be able to benefit from inclusion within a very large prize lottery. Further, based on the experience of the Isle of Man the annual revenue from the excise duty (12%) payable on each lottery draw could amount to some £500,000.

Finally, the Islands would also be able to benefit from a share of Good Cause money. The Big Lottery Fund would ring fence a share of Good Cause money for communities, health, education and the environment for each of the Channel Islands using a formula to ensure a fair share. The precise mechanism for distributing the money needs to be

agreed, but it might involve the Big Lottery Fund delegating all decision-making to a body set up in each of the islands for this purpose.

In the UK, 28p on average from every £1 of ticket sales goes to the Good Causes. Half of this is distributed by the Big Lottery Fund. Thus the territories of the Channel Islands would have access to half of the Good Cause money (that is, 14p in every £1). Here again, based on the Isle of Man's experience, it is likely that Good Causes money would significantly exceed the charities money which the current Christmas Draw generates.

It would be a matter for each of the Channel Islands' authorities to address whether to fund further Good Causes such as arts, sport and heritage.

Enabling legislation under the National Lottery Act 2006 has been given Royal Assent which means that, should the Channel Islands authorities agree, the legislation is now in place in the UK to allow the introduction of the National Lottery to the Channel Islands. It should be stressed that there are still a number of decisions that need to be agreed between Jersey and Guernsey with regard to the possible introduction of the National Lottery. In addition the local gambling and customs legislation would need to be amended to enable the National Lottery to be played lawfully and for the duty to be collected.

At this stage it is unclear whether an extension of the National Lottery to the Channel Islands would be dependent on the Channel Islands' Lottery coming to an end. Given the continuing popularity of this lottery the authorities in Jersey and Guernsey are both keen to identify a way to protect it, so long as it remains economically viable.

On 7th August 2007 the National Lottery Commission announced that it had awarded the licence to operate the National Lottery from 1st February 2009 to Camelot.

The Department understands that following the award of the licence negotiations between Camelot, the Culture and leisure Department and Jersey's Economic Development Department are likely to commence in the near future. The Department undertakes to continue to work collaboratively with the Culture and Leisure Department to progress this matter, including assisting in progressing such legislation as may be needed should the States agree to permit the extension of the National Lottery to the Bailiwick.

11. Amusement Arcades

The Department noted that amusement arcades appeared extremely popular on the Mainland and that such venues had also been opened in Jersey and the Isle of Man. The Department acknowledged that whilst they did provide a source of entertainment they were also often linked to anti-social behaviour. The Department is solely concerned with games of chance and not games of skill. However, it noted that the distinction between whether such games are skills or chance-based is somewhat blurred and would

therefore recommend that the revised legislation should seek to provide a definition of such chance-based games.

The Department noted that there did not appear to be any appetite for their introduction locally and therefore concluded that the present restrictions on these types of arcades should remain primarily a matter for the Environment Department through the planning process.

Notwithstanding the above comments the Department recognises that as technology has developed there has been some blurring of the distinction between games of skill, which are not controlled under the gambling legislation, and games of chance, which are restricted. The Department therefore undertakes to seek to provide guidance as to what types of electronic machines are games of chance and which are games of skill.

12. Legislative Framework

The Group noted that there was currently a large number of Laws, Ordinances and regulations making it very difficult to easily work out what is lawful and what unlawful.

The Department concluded that the most appropriate approach would be to repeal all existing gambling legislation and introduce the Gambling (Guernsey) Law, 200- as enabling legislation, together with the Gambling (Guernsey) Ordinance, 200- and such regulations as may be needed.

It also recommends that the new legislation clearly addresses the three key principles, namely:

- To keep gambling crime free and ensure that gambling operators are subject to rules on money laundering and financial probity
- To ensure that gambling is fair and transparent
- To protect children and vulnerable adults.

Further, the Department recommends that responsibility for the granting of bookmaker and Crown and Anchor licences should be transferred to the Royal Court. It believes that the removal of any political involvement in the licensing process will ensure that the issues, amendment, suspension or revocation of any licences will be seen to be fair and transparent. It recommends that the mechanism for this should be broadly modelled on the procedure for issuing liquor licences.

Finally it recommends that, wherever possible, the new legislation should parallel the process adopted for the grant and renewal of liquor licences and the Royal Court should have appropriate powers to review, amend, impose and/or vary conditions, suspend and revoke licences where it has evidence which clearly demonstrates that any of the three key principles are not being adhered to.

	Proposal in Consultation Document	Department's Recommendation
23	<i>Not included in the consultation paper</i>	Repeal of the existing gambling legislation and the introduction of new enabling legislation, modelled on the existing liquor licensing legislation, to provide for issue and/or variance of licensing conditions, including powers to suspend and revoke licences where the Royal Court is satisfied that there is evidence that any of the three key principles has not been adhered to and/or Codes of Practice complied with.

13. Support for Problem Gamblers

Gambling is unlike most other industries, as what can be a harmless pastime for the majority may become an addiction for a few. Therefore appropriate controls must be in place to ensure it is properly and carefully regulated. The Department firmly believes that the gambling industry has the prime responsibility to act in a way that does not encourage repetitive play.

Throughout its discussions the Working Party was very conscious that a small percentage of people become addicted to gambling and the resulting problems will have a major and negative impact on them and their families.

Problem gambling is gambling behaviour which causes disruptions in any major area of life: psychological, physical, social or vocational. The term "*problem gambling*" includes, but is not limited to, the condition known as "pathological" or "compulsive" gambling, a progressive addiction characterized by increasing preoccupation with gambling, a need to bet more money more frequently, restlessness or irritability when attempting to stop, "chasing" losses, and loss of control manifested by continuation of the gambling behaviour in spite of mounting, serious and negative consequences. It is an emotional problem that has financial consequences and even if all of a problem gambler's debts were paid, that person will still be a problem gambler. The real problem is that they have an uncontrollable obsession with gambling. Anyone who gambles can develop problems if they are not aware of the risks and do not gamble responsibly. When gambling behaviour interferes with finances, relationships and the workplace, a serious problem already exists.

The cause of a gambling problem is the individual's inability to control the gambling. This may be due in part to a person's genetic tendency to develop addiction, their ability to cope with normal life stress and even their social upbringing and moral attitudes about gambling. Therefore, any type of gambling can become problematic, just as an alcoholic can get drunk on any type of alcohol. For example whilst a casino or lottery

provides the opportunity for the person to gamble it does not, in and of itself, create the problem any more than a liquor store would create an alcoholic.

Whilst it is often believed that problem gamblers suffer from other addictions, research has shown that this is not universally the case. Some problem gamblers may also find they have a problem with alcohol or drugs. This does not, however, mean that if you have a gambling problem you are guaranteed to become addicted to other things. It was noted that some problem gamblers never experience any other addiction because no other substance or activity gives them the same feeling as gambling can. There also appears to be evidence of family patterns regarding dependency as many problem gamblers report one or both parents had a drinking and or gambling problem.

The Department spoke with a broad cross-section of agencies which work with people with addiction and debt-related problems. It was advised that there is little evidence to suggest that gambling addiction is a significant problem locally. However, this is an issue that is raised from time to time by people experiencing indebtedness as a result of excessive or addictive gambling behaviour. It noted that there appeared to be significant differences between the various types of gambling activity and the likelihood of such problems arising. The Department subsequently received the following detailed observations from the Guernsey Citizen's Advice Bureau:

"The Guernsey CAB has made the following observations based on contacts they have received from members of the public:

"Our observations are as follows:

- a) Primarily we are finding that where clients are asking for professional counselling support for their gambling addiction we have to inform them that Guernsey does not have a dedicated service, the closest being in Jersey. This has caused much distress and anxiety amongst our clients when they realise that they have nowhere to turn for support with their addiction. In this context we would welcome any discussion and development in this area, as it would enable local people to gain support for a very difficult situation. Such a development would positively influence and affect the following.*
- b) Secondly, we are finding that ease of availability is causing problems for some members of the public who may have been able to avoid the other, more traditional forms of gambling. In short, people do not have to travel, and have the comfort of their own homes from where they can gamble. There are few restrictions in this environment.*
- c) Thirdly, that many of our clients simply lacked awareness of the risks and dangers presented by their problem. That as something they could do from their own home they would somehow be protected from the resulting problems.*

- d) *That many social problems resulted from their online gambling. Examples included families paying off loans, health problems, alcohol abuse, and relationship breakdown.*
- e) *That such problems may directly contribute to increased risk taking behaviour when securing loans from the more unscrupulous lenders in the community.*
- f) *That resulting debt directly impacted upon levels of sickness and client's employment, resulting in time away from work and affecting productivity.*
- g) *It would therefore seem to be the next step that such debt then affects their housing, resulting in potential homelessness.*
- h) *There would also appear to be some research that has indicated that online gambling, being a solitary and isolated behaviour can reinforce compulsive behaviour.*
- i) *An additional factor that can place gamblers further at risk is the existence of online tracking mechanisms that are designed to monitor users' spending behaviour. In the hands of unscrupulous agencies this could be used to target those that are vulnerable to advertising or pressure selling techniques.*
- j) *Some on line gambling agencies have provided 'gatekeepers' to watch the spending habits of those most at risk. This is not an industry standard and by no means exists across the sector.*
- k) *An obvious observation is also that the World Wide Web and internet usage has seen a massive development compared to even a few years ago. It is therefore not unreasonable to assume that the growth of internet gambling will grow in line with this, along with the risk and the debt and the social problems.*

In conclusion it would seem appropriate to stress that now may be time to include some safeguards or support in order to address the problems and negative outcomes of internet gambling."

The Department recommends that appropriate codes of practice are introduced for the more commercially orientated forms of gambling and that non-compliance with such codes of practice would be regarded as a breach of the licensing conditions. It has therefore included three recommendations which it hopes will address the concerns raised during its consultation and, in particular, the issues identified by the Guernsey CAB.

	Proposal in Consultation Document	Department's Recommendation
24	<i>To introduce an appropriate set of Codes of Practice for licensed operators to ensure that the likelihood of people becoming addicted to gambling is carefully and properly controlled.</i>	<p>The Department recommends the introduction of Codes of Practices to fulfil its key objectives :</p> <ul style="list-style-type: none"> • To keep gambling crime free and ensure that gambling operators are subject to rules on money laundering and financial probity • To ensure that gambling is fair and transparent • To protect children and vulnerable adults.
25	<i>To regard the non-compliance with such Codes of Practice as a breach of licensing conditions.</i>	The Department recommends that non-compliance with such Codes of Practice should be regarded as a breach of the licensing conditions.
26	<i>To introduce an appropriate and proportionate system for monitoring any increase in the number of people presenting with gambling-related problems.</i>	<p>The Department recommends that a simple system whereby agencies working with people who may be experiencing problems and/or difficulties because of gambling can feed this information into a central database which could be monitored by the Department.</p> <p>It suggests that discussions are held with the Drug and Alcohol Strategy Group to see whether this data collection could be linked to the data they collect on drug and alcohol-related problems.</p>

Notwithstanding the above, the Department recommends that appropriate measures are put in place to monitor the impact of these changes on gambling behaviour. Thus, if the Department identified evidence of an increase in gambling problems it would seek to use part of the licence fees to fund such additional services which may be required to provide support for those affected. It is important to remember that even if no changes are made locally people will be able to gamble all day and every day via the internet, etc and that the impact of digital switchover is likely to increase such opportunities via television.

14. Guernsey Gambling Control Commission

In 2001 the Guernsey Gambling Control Commission ("the Guernsey Commission") was established under the Guernsey Gambling Control Commission Law, 2001 to act as

the regulatory body to oversee the establishment of a casino and regulate its operations. The Guernsey Commission has not been required to discharge its full duties provided for under the 2001 Law as the plans to establish a casino have not come to fruition. However, the 2001 Law did not include provision for the Guernsey Commission, once established, to suspend its functions in such circumstances. Therefore, whilst the current Guernsey Commission has effectively “mothballed” its activities the 2001 Law requires that annual accounts and an annual report are prepared and to this extent it is necessary to ensure that the Guernsey Commission remains quorate.

The Department has, in close consultation with HM Procureur and the Guernsey Commission, considered a number of options for the future of the Guernsey Commission. The Department is mindful that, at present, there appears to be little demand for the casino licence to be awarded to another potential operator. However, it is also conscious that whilst the regulation and supervision of the casino was the primary purpose for its establishment there may be other aspects of gambling activity where independent regulation and supervision may be required, for example fixed odds betting terminals.

The Department has considered a number of options and concluded that to amend the Guernsey Gambling Control Commission Law, 2001 to allow for the Guernsey Commission to be suspended until the suspension was lifted by a further Ordinance provided the best solution. The principle advantage of this approach is that it would discharge the Guernsey Commissioners of their duties and it would also provide an opportunity to insert a provision into the 2001 Law for all its provisions to be amended, in the future, by Ordinance. This approach would also provide for the Guernsey Commission to exercise its regulatory and supervisory rôle in areas other than a casino.

The Department acknowledges that whilst this approach may not be the simplest, as it requires new primary legislation, it will provide the greater flexibility for the future should it be in the interests of Guernsey’s economy to promote a gambling industry far broader than the proposals contained within this Report. Further, it will allow for the legislative framework for the Guernsey Commission to be re-established speedily should the need arise.

The Department has consulted the Chairman and Members of the Guernsey Commission who have indicated their support for the proposed way forward.

Mr. Peter Morgan was appointed as Chairman of the Guernsey Commission on 1st December 2002 and Mrs Carol Goodwin, Mr. Peter Crook and Mr. Christopher Spencer were appointed as Commissioners from the same date. Their term of office was for five years and so will expire on 30th November 2007. The Department has therefore decided not to seek States approval to extend these terms of office in light of its proposals to amend the legislation to allow for the function and duties of the Guernsey Commission to be suspended. That is, with effect from 1st December 2007 the Chairman and Commissioners will no longer be liable for any actions in respect of the Guernsey Commission.

The Department wishes to record its thanks to the Chairman and Commissioners for the diligent manner in which they have sought to carry out their duties, particularly in light of the uncertainties which preceded the decision by CI Traders not to proceed with the casino licence.

	Proposal in Consultation Document	Department's Recommendation
27	<i>No recommendation in the Consultation Paper.</i>	Amend the Guernsey Gambling Control Commission Law, 2001 to allow for the Guernsey Commission to be suspended until such time as it may be lifted by a further Ordinance.

15. Outcome from Public Consultation

The Department was disappointed with the low response to its consultation document. However, the responses received were very helpful in considering which of the proposals in the consultation paper should be presented as a recommendation in this report. In particular, the Department was grateful for those members of the public who expressed their concerns about the potential negative impact of gambling on the community should the present restrictions be relaxed. Similarly, it appreciated the responses from several of the Island's licensed bookmakers regarding the commercial difficulties they are facing following the growth of eGambling and the impact that this type of gambling has had on the commercial viability of the locally operated bookmakers.

The Department only received 15 responses and a breakdown of who responded is set out below and Appendix 1 provides a breakdown as to the degree to which the respondents agreed or disagreed with the proposals set out in the consultation paper. In drafting the recommendations the Department has attempted to balance the often competing concerns expressed by those who responded to the consultation paper.

Description of Respondent	Number
Private individual	3
States Member	3
Licensed Bookmaker	5
Business	1
Douzaines	2
Group or Organisation	1

The Department believes that the recommendations set out in this paper reflect the need to balance such concerns but to ensure that the regulatory régime is fair, appropriate and proportionate to all sectors of the community. It firmly believes that the adoption of the three key principles outlined at the start of this report will be central to achieving such a balance.

16. Consultation with the Culture and Leisure Department

The Department has consulted and the Department's Minister has responded as follows:

"I would like to begin by congratulating your Department on the report. I am aware that it has been a long time since the law was last considered and that with the many recent changes in attitudes to gambling elsewhere together with advances in modern technology, there are many issues that require detailed examination. Clearly the report shows that there has been careful consideration of the various aspects of gambling and the different issues that arise with each one but more importantly, seeks to achieve a sensible balance by taking into account matters such as "problem gamblers", revenue income to the States and the fact that freedom to engage in various forms of remote gambling makes total regulation almost impossible.

From the Culture and Leisure Department's perspective I would like to make just two specific comments on the recommendations; firstly to welcome the proposal to remove some of the bureaucracy associated with the charitable/not-for-profit lotteries and draws as this can only serve to help sports clubs and the like when seeking fundraising for new equipment etc. Secondly I am pleased to note the intention to restrict the fixed odds betting terminals (FOBT) to bookmakers' offices as this will help ensure that this type of betting will not be at the expense of the Channel Islands Lottery or National Lottery (if and when it is introduced) and the good causes that subsequently benefit.

Finally I would like to add that, whilst some people have expressed the view that the CI Lottery should be preserved if the National Lottery is extended to the Islands, no firm decisions have been made in this regard and it is currently the intention of both Islands to engage in a public consultation process on the matter sometime in the next few months."

17. Consultation with the Commerce and Employment Department

The Department has consulted with the Commerce and Employment Department and the Department has indicated that it is supportive of the recommendations set out in the Report.

18. Consultation with Her Majesty's Procureur

The Department has consulted with HM Procureur regarding the proposals for amending the Island's gambling legislation and he has confirmed that he is satisfied that the Department's proposals will improve the law enforcement processes associated with commercial and non-commercial gambling activities.

Further, HM Procureur is of the view that the plan to consolidate the legislation will provide greater practical transparency and consequential legal certainty.

HM Procureur also noted that other jurisdictions and, in particular the United Kingdom, have recognised that the gambling industry has moved over the last fifty years from being criminal, to being legalised, to being promoted as a sector of the leisure industry.

Further, HM Procureur supports the Department's proposals for a clearer licensing process and the recommendation for the introduction of sanctions that can be imposed against a licensee, up to and including revocation, as this will make any administrative law proceedings arising from decisions set against an appropriate framework of mandatory and discretionary considerations potentially easier to explain in those proceedings.

HM Procureur concludes that from a law enforcement and regulatory perspective he supports the Department's proposals.

19. Resources

The Department believes that the implementation of the proposals set out in this report can be managed from within the Department's existing resources.

20. Summary of Recommendations

	Department's Recommendations
Charitable / Not-for-Profit Gaming, Lotteries and Draws	
1	Replace current system with an annual registration fee to cover administrative costs - £25 per charity per annum.
2	Activities to be covered under this approach to include all activities currently permitted but to also provide the Department with the power to amend the list of approved activities.
3	Remove the value of individual prizes and the price of tickets and permit the Department to require a lottery promoter to provide it with documentary evidence to show that the draw would take place on the date stated on the tickets and the prizes would be available regardless of how many tickets are sold and that, where appropriate, the promoter be required to provide evidence that the lottery was underwritten.
Gaming Machines	
4	No change to the current restrictions on electronic games of chance, other than in respect of Fixed Odds Betting Terminals (see Section 8 and Recommendations 21 and 22 below).

Fair-based Amusements with Prizes	
5	Increase fees to reflect the commercial value of the permit - £100 for the licence and first day plus £75 per day thereafter - and remove the cap on the value of prizes.
Football Pools	
6	Introduce a registration scheme and for the person nominated as “promoter” to provide police check certificate and set the registration fee to cover administrative costs at £50 per person per annum.
Crown and Anchor	
7	Increase fees to reflect the true commercial value to the licensed operators of holding a Crown and Anchor licence, namely £150 per annum for the annual licence plus £100 per table per day.
8	Require the licensed operators to provide an annual police check certificate.
9	Introduce provisions to permit the Department to review, amend, suspend or revoke a Crown and Anchor licence at anytime during its operation if there are serious grounds for concern about the person’s suitability to operate the said licence.
Bingo	
10	Introduce a registration scheme and for the person nominated as “promoter” to provide police check certificate and set the registration fee to cover administrative costs at £50 per person per annum.
11	The respondents to the review showed little enthusiasm for the introduction of commercial bingo. Therefore the Department recommends that no further work is undertaken in this area at this time.
Commercial On the Course Betting	
12	<p>The Department recommends the following fees for commercial on-course betting:</p> <p>(a) Occasional permit - £50 per day</p> <p>(b) Deposit - £300.</p>

Commercial Off the Course Betting	
13	<p>The Department concluded that market forces and planning restrictions on the size and type of signs should serve to “regulate” advertising without the need to prescribe the form for signs, etc.</p> <p>It therefore recommends that these restrictions should be removed but that the Codes of Practice (see Recommendation 18 below) should address the type of advertising which may be deemed to be “harmful” and/or encouraging harmful gambling.</p> <p>The Department can see no reason why bookmakers should not offer customers more comfortable facilities and/or refreshments.</p>
14	<p>Whilst there is an anomaly in that somebody can place a bet on a Sunday via an authorised agent the Department recommends that this restriction on Sunday trading should remain.</p>
15	<p>The Department recommends the number of licences be fixed by Regulation and that the present quota of 7 be retained at present.</p> <p>Prior to any decision to increase or decrease the number of licences the Department would undertake a public consultation and would set out its reasons for proposing the change.</p>
16	<p>The Department can see benefits of maintaining the status quo and of allowing locally incorporated companies to hold a licence.</p> <p>On balance it concluded that the status quo should be retained as other proposals to amend the gambling legislation to parallel much of liquor licensing should enable bookmakers to sell their businesses as going concerns with greater ease.</p>
17	<p>The Department recommends that annual bookmakers’ fees be increased, as follows:</p> <ul style="list-style-type: none"> (a) Bookmaker’s licence - £1,000 (b) Betting office licence - £2,000 (c) Credit betting office licence - £500 (d) Authorised agent’s licence - £100 per agent.
18	<p>Amend the provisions for the grant and renewal of licences and provide wider powers for the review, amendment and addition of conditions, in line with the three key objectives: To keep gambling crime free and ensure that gambling operators are subject to rules on money laundering and financial probity, to ensure that gambling is fair and transparent and to protect children and vulnerable adults.</p>

19	See comments under Recommendation 16 above.
20	<p>The Department recommends that proper record keeping is incorporated in the general Codes of Practice (see Recommendations 24 to 26 below).</p> <p>That codes of practice on anti-money laundering and social responsibility are an explicit licence condition and bookmakers (their staff and Authorised Agents) will have to put into effect policies and procedures to ensure compliance with these conditions</p> <p>It further recommends that bookmakers and their staff should be required to demonstrate their understanding of and competence in responding to any suspicious transactions.</p>
Fixed-odds Betting	
21	<p>Agree, in principle, to the introduction of FOBTs subject to consideration of the potential negative impacts of such terminals on gambling addiction. Introduce separate codes of practice and other regulatory practices as may be necessary to ensure that the terminals are not misused.</p> <p>To restrict the terminals to licensed bookmakers' offices and to permit a maximum of two terminals to any one bookmaker's office.</p>
22	As set out in Recommendation 21 above if such terminals are permitted there would need to be a robust regulatory régime. It is recommended that the minimum fee should be £1,000 per terminal per annum, subject to the qualifications set out above, plus the costs of any additional regulatory régime as may be required.
Legislative Framework	
23	Repeal of the existing gambling legislation and the introduction of new enabling legislation, modelled on the existing liquor licensing legislation, to provide for issue and/or variance of licensing conditions, including powers to suspend and revoke licences where the Royal Court is satisfied that there is evidence that any of the three key principles has not been adhered to and/or Codes of Practice complied with.
Support for Problem Gamblers	
24	<p>The Department recommends the introduction of Codes of Practices to fulfil its key objectives :</p> <ul style="list-style-type: none"> • To keep gambling crime free and ensure that gambling operators are subject to rules on money laundering and financial probity • To ensure that gambling is fair and transparent • To protect children and vulnerable adults.

25	The Department recommends that non-compliance with such Codes of Practice should be regarded as a breach of the licensing conditions.
26	<p>The Department recommends that a simple system whereby agencies working with people who may be experiencing problems and/or difficulties because of gambling can feed this information into a central database which could be monitored by the Department.</p> <p>It suggests that discussions are held with the Drug and Alcohol Strategy Group to see whether this data collection could be linked to the data they collect on drug and alcohol-related problems.</p>
Guernsey Gambling Control Commission	
27	Amend the Guernsey Gambling Control Commission Law, 2001 to allow for the Guernsey Commission to be suspended until such time as it may be lifted by a further Ordinance.

21. Conclusion

The Department recommends the States:

- (a) To approve the Department's proposals as set out in this report; and
- (b) To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

Yours faithfully

G H Mahy
Minister

APPENDIX 1**ANALYSIS OF RESPONSES**

PROPOSAL	Agree	Qualified Agreement	Disagree	No Comment
<i>Charitable/Not-for-Profit Gaming, Lotteries and Draws</i>				
1 - Replace current charging system with simple annual registration with fee set to cover administrative costs	7	1	1	6
2 - Activities to be covered under this approach to include lotteries and draws involving tickets sold outside event, lotteries and draws involving tickets solely sold at event, cinema racing, "Casino" nights, non-commercial amusements with prizes, non-commercial bingo, Donkey Derby, including "race course" tote, competitions with prizes and trolley dashes	6	1	0	8
3 - Cap the value of an individual prize at £25,000 and tickets at £25 each and allow the Department to alter these limits and the types of games of chance permitted by Regulation	5	3	0	7
<i>Private Gaming, Lotteries and Draws</i>				
4 - Introduce a registration scheme and for person nominated as "promoter" to provide police check certificate and set the registration fee to cover administrative costs that reflects the commercial benefits to licensee	10	0	0	5
<i>Gaming Machines</i>				
5 - No change to the current restrictions	12	0	0	3

<i>Fair-based Amusements with Prizes</i>				
6 - Increase fees to reflect the commercial value of the permit and remove the cap on the value of prizes	5	4	1	5
<i>Football Pools</i>				
7 - Introduce a registration scheme and for person nominated as “promoter” to provide police check certificate and set the registration fee to cover administrative costs and reflect the commercial benefits to licensee	9	0	0	6
<i>Crown and Anchor</i>				
8 - Increase fees to reflect the true commercial value to the licensed operators of holding a Crown and Anchor licence	6	1	1	7
9 - Requiring the licensed operators to provide an annual police check certificate	8	1	0	6
10 - Introduce provisions to permit the Department to review, amend, suspend or revoke a Crown and Anchor licence at anytime during its operation if there are serious grounds for concern about the person’s suitability to operate the said licence	7	0	0	8
<i>Bingo</i>				
11 - Introduce a simple registration scheme and for person nominated as “promoter” to provide police check certificate and set the registration fee to cover administrative costs and reflect the commercial benefits to licensee	5	1	3	6
12 - Undertake a detailed cost/benefit analysis of the viability for introducing commercial bingo locally	1	0	8	6

<i>Commercial On the Course Betting</i>				
13 - Increase fees to reflect the true commercial value to the licensed operators of holding an on-course and/or tote betting licence	6	4	0	5
<i>Commercial Off the Course Betting</i>				
14 - Remove the restrictions on the facilities which a bookmaker can offer on his premises and permit bookmakers to advertise their business	12	0	2	1
15 - Remove the restrictions on Sunday opening	6	2	5	2
16 - Maintain the current cap on licences at 7 but allow the Department, by regulation, to increase the number of licences to a maximum of 10 if market forces demonstrate the additional demand	7	2	4	2
17 - Permit bookmakers' licences to be held by corporate bodies registered in Guernsey and the appointment of locally resident and designated officials	5	1	6	3
18 - Undertake a detailed cost/benefit analysis of the viability of removing the restriction on who may hold a bookmaker's licence	6	6	2	1
19 - Increase fees to reflect the true commercial value to the licensed operators of a bookmaker's licence and associated licences	8	3	3	1
20 - Amend the provisions for the grant and renewal of licences and provide wider powers for the Department to review, amend, add conditions, suspend or revoke a licence where it had reliable evidence to support such action	12	0	1	2

21 - <i>Introduction of a system for provisional licences which would allow somebody interested in becoming a bookmaker to seek a provisional licence and then the existing bookmaker could “sell” business as purchaser would have some guarantee that licence would be granted</i>	9	2	2	2
22 - <i>Introduce an appropriate code of practice requiring bookmakers to demonstrate proper record keeping systems and internal control to ensure best practice in the management of bookmakers’ licences</i>	11	2	0	2
23 - <i>Undertake detailed discussions with the appropriate agencies to provide a robust regulatory system to prevent bookmakers being used in money-laundering activities</i>	11	1	1	2
EGambling				
24 - <i>No change to the current restrictions</i>	11	1	1	2
Fixed-odds Betting				
25 - <i>Agree in principle to the introduction of FOBTs but for the Working Group to undertake further research into an appropriate system for regulating their use, including the preparation of Codes of Practice which will be binding on licensed operators</i>	11	1	3	0
26 - <i>Introduce a separate licence fee per machine which reflects the true commercial value of a FOBT to the licensed operator and covers the cost of regulation</i>	8	4	2	1

27 - Agree to the Home and Culture and Leisure Departments continuing to progress discussions with Jersey's Economic Development Department and the Department for Culture, Media and Sport and the National Lottery Commission regarding extending the National Lottery to the Channel Islands	5	4	2	4
Amusement Arcades				
28 - No change to the current restrictions	11	0	2	2
Legislative Framework				
29 - Repeal all existing gambling legislation and introduce new enabling legislation which provides to review, amend, impose and/or vary conditions, suspend and revoke licences where it has evidence which clearly demonstrates that any of the three key principles are not being adhered to	12	0	0	3
Support for Problem Gamblers				
30 - To introduce an appropriate set of Codes of Practice for licensed operators to ensure that the likelihood of people becoming addicted to gambling is carefully and properly controlled	12	1	0	2
31 - To regard the non-compliance with Codes of Practice as a breach of licensing conditions	11	0	1	3
32 - To introduce an appropriate and proportionate system for monitoring any increase in the number of people presenting with gambling-related problems	11	0	1	3

APPENDIX 2**ALDERNEY "WHITE LISTING" LETTER**

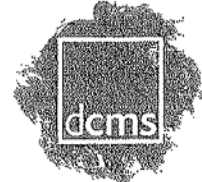
Department for Culture, Media and Sport
Gerry Sutcliffe MP
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department for
culture, media
and sport

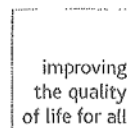
31 July 2007

Dear Mr Jeremiah

Thank you for your letter and representations of 28 March to my officials concerning Alderney's wish to be allowed to advertise gambling in the United Kingdom from 1 September 2007. Thank you also for the further information you provided at my officials' request in your letter of 29 June. As Minister for Sport, I am replying on behalf of my Secretary of State.

I am pleased to tell you that, having reviewed this evidence, my Secretary of State has taken the view that Alderney meets the criteria for 'whitelisting' which the Department published in February. My Secretary of State intends to lay before Parliament regulations under Section 331 of the Gambling Act 2005 in August 2007. These regulations, laid under the negative process, will name Alderney as one of the countries or places permitted to advertise remote gambling in the United Kingdom as if it were an EEA state. In effect, this will allow gambling operators licensed by the Alderney Gambling Control Commission to advertise remote gambling services in the United Kingdom from 1 September 2007 without committing an offence under section 331 of the Act.

The Secretary of State is content that Alderney has the legal authority to regulate gambling. Its current system of regulation and licensing provides a robust and adequately resourced framework to uphold our shared objectives: to prevent gambling from becoming a source of crime; to keep gambling fair and open and to protect children and vulnerable people. I understand that by 1 September 2007 you will have in place a requirement on your licence holders to contribute to research and education about the risks of gambling and to the treatment of problem gamblers. The Secretary of State is therefore content to include Alderney on the whitelist. However, as you know, under the Gambling Act 2005, the Secretary of State has the power to remove countries and places from the whitelist if it comes to our attention that they no longer meet the criteria we have set.



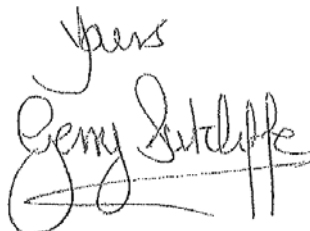
Department for Culture, Media and Sport

I would like to draw your attention to the following points:

- The States of Alderney should inform the Department in advance if they make any significant changes or additions to their system of gambling legislation, regulation or licensing. You may wish to note that we intend to review the whitelist at regular intervals. At this time, we will ask you to revise and resubmit your representations, reflecting any changes in your gambling regulation system.
- The Alderney Gambling Control Commission (AGCC) and their licensees should be aware of and compliant with the restrictions on gambling advertising under the Gambling Act 2005 (Part 4, section 46, Part 11 and Part 16) and any other subsequent secondary legislation. AGCC and its licensees should also be aware of the restrictions on the advertising of gambling in Northern Ireland under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (SI 1985, No 1204 (N.I. 11)) and related subordinate legislation.
- We expect advertisers of gambling services licensed in your jurisdiction to comply with all relevant standards and codes of practice for UK advertising. As you propose in your letter of 29 June, you should bring to the attention of your licensees the new Advertising Standards Authority codes on gambling advertising for broadcast and non-broadcast media and any other codes of practice affecting gambling advertising in Britain. I am encouraged by your suggestion that compliance with advertising codes of practice may become a requirement of Alderney law.

As you know, the Gambling Act has taken considerable steps towards improving standards of sports betting integrity. I am encouraged to hear that you are willing to exchange information with the GB Gambling Commission and have started informal discussions with the Jockey Club in anticipation of licensing sports betting operators. I would urge you to open similar discussions with other sports governing bodies about the exchange of information, as you suggest.

Finally, I am grateful for Alderney's sustained efforts to set high standards of remote gambling regulation. I recognise that you share this Government's desire to take a leading role in raising the quality of regulation and consumer protection worldwide. My officials will continue to keep in close contact with yours about our efforts to do this, following up on the successful international remote gambling summit we hosted last year at Ascot. I am sure I can rely on your continued co-operation.



GERRY SUTCLIFFE

(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:-

X.- Whether, after consideration of the Report dated 29th August, 2007, of the Home Department, they are of the opinion:-

1. To approve the Department's proposals as set out in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

EDUCATION DEPARTMENT

GRANTS AND LOANS FOR STUDENTS ATTENDING COURSES OF HIGHER AND FURTHER EDUCATION OFF-ISLAND

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

30th August, 2007

Dear Sir

1. *Executive Summary*

- 1.1 The purpose of this report is to consider the issues of the future affordability of higher education funding as identified in the Education Department's draft States Report released publicly in November 2006 but until now not presented formally to the States. The report has been revised following a major consultation exercise undertaken by the Department. The Education Department has noted and, where possible, amended its original proposals following the consultation.
- 1.2 The Education Board is of the same mind as it was in November 2006 and its preferred option, which it wishes to recommend to the States, remains as it was originally: to request the States to increase cash limits for higher education for Guernsey and Alderney students attending full-time further and higher education courses outside the Bailiwick. The States will continue to provide financial assistance towards tuition and maintenance costs, subject to financial assessment.
- 1.3 If the States do not support this request, the Department proposes to move in September 2009 from the current HE Awards system, under which the States pay about 60% of the cost of student support through grants, and parents pay 40% through their assessed contributions, to a new system whereby students will receive a proportion of their funding in the form of loans advanced by the States and repayable after they have completed their studies.
- 1.4 A financial problem has arisen because of growing student numbers, rising tuition fees and States imposed financial constraints. These factors have combined so that the higher education budget is no longer sufficient to meet the rising costs of higher education awards for Guernsey and Alderney students attending courses of further and higher education outside the Bailiwick.

- 1.5 In May 2001, the then Education Council submitted a report to the States which acknowledged the possible introduction of student loans; the report recommended that the States should continue to support students by means-tested grants not loans.
- 1.6 The introduction of a loans scheme to assist students in meeting their maintenance or living costs was considered, but the Education Council decided that it did not favour a scheme of student loans in place of grants because it was undesirable for students to complete their higher education with substantial debts. Furthermore, while the Inland Revenue recovered the debt of UK graduates through the tax system on behalf of the UK student loans company, it was, at that time, considered unlikely that an effective system of recovering the money from Guernsey students could be established.
- 1.7 In its 2003 Policy Planning submission, the Education Council advised the then Advisory and Finance Committee that student numbers for 2002 had increased more than anticipated and that, although unspent balances were likely to be sufficient to meet demand until 2005, additional funding would be required from 2005 to 2008.
- 1.8 A report commissioned by the Education Board and undertaken by BWCI in September 2006 indicated that the present and proposed future years' cash limit of £6.5 million would be insufficient to continue the current system of higher education awards from 2007 onwards. The report is available on line at www.education.gg.
- 1.9 In 2007 monetary terms, it is estimated that the HE budget will need to be increased to the following amounts in future years.

	2007 £m	2008 £m	2009 £m	2010 £m	2011 £m	2012 £m
Total HE Budget	6.58	7.40	8.23	8.88	9.09	9.12

Inflation/RPI will still need to be added onto these figures. Using BWCI's general inflation assumption of 3.3% per annum, the annual HE budget required in the calendar year 2012 will be just over £10.5 million. These amounts may vary if the assumptions made in BWCI's model are not borne out in practice.

- 1.10 The Education Department subsequently prepared a States Report that it intended to present to the States in November 2006, which it submitted to the Policy Council and the Treasury and Resources Department. The report asked for additional funding but, if this was not possible, proposed the introduction of a student contribution. The student contribution to cover the shortfall projected was £4,500 per annum, increasing each year in line with inflation.

- 1.11 After further discussions with the Treasury and Resources Department, it was agreed that the report should be withdrawn, the current method of grant support should continue for the academic years 2007 and 2008 and the Education Department would be given additional funding to cover any deficit with no real term reduction in the General Budget. Following this agreement, the Education Department commissioned a further round of detailed consultation, including releasing the draft 2006 Report.
- 1.12 An Island-wide postal questionnaire was sent to 2000 households randomly selected across the Bailiwick (the high number of questionnaires sent out was so that the questionnaires could be sent, as far as possible, to a representative sample of Guernsey households) and to all students currently in higher education. In addition, the consultation process was widely published and anyone who wished to was invited to complete a questionnaire.
- 1.13 The results were analysed separately from the randomly selected Island-wide postal sample and other, voluntary responses. The results have been published and are available at the Greffe, States Members' Room, Sir Charles Frossard House, the Guille-Allès Library and at the Education Department in the Grange. Section 2 of the report gives a summary of the consultation responses.
- 1.14 The consultation process, the current report and the November 2006 reports all examine the possible options that are available to address the growing funding shortfall. Four options have been identified to address the situation:
 - a) The Higher Education budget receives additional funding without detriment to the other two cash limits which the Department has: the General Budget and the Colleges and Libraries Budget.
 - b) The number of students going to university and receiving States support is cut significantly, for example, by restricting courses for which such support is offered.
 - c) Increasing parental contributions.
 - d) Introducing student loans.
- 1.15 The Department, in its aborted November 2006 report, rejected option (b), not only because it was undesirable in terms of the Department's objectives for lifelong learning, but also because it was likely to be susceptible to judicial challenge. The Department also rejected option (c) on the grounds that this was not going to provide the funds required because the majority of middle to higher income families were already paying nearly the full cost of their child's higher education. The Board recommended more funding or, if this was not possible, the introduction of a student contribution in addition to the current parental contribution.

- 1.16 The results from the consultation exercise are broadly in-line with the Department's views. Respondents hoped more funding could be given; were against restricting student numbers and, rather than restricting student numbers, supported a lower level of student loan than that suggested in November 2006. Again, members are recommended to read the full report available as identified in paragraph 1.8.
- 1.17 The Department's view remains unchanged from earlier reports: a modern society needs as many of its citizens as possible to benefit from higher education. Restricting students who have accomplished much in being offered a place at university is contrary to modern values and could lead to a long-term decline in the economic security of the Island which depends on a well-educated workforce.
- 1.18 The report outlines the comprehensive process carried out by the Education Department to review how higher education awards can best be funded in future years given the desire to maximise student potential for the benefit of the Island.
- 1.19 The Department's favoured option is the continuation of the current system for grant funding for higher education awards, but it recognises that the figure required to sustain the current system in today's cash terms would be much higher than the available budget. The current cash limit is £6.5 million, variable to the start of the 2009 academic year. In real/2006 terms, BWCI projections suggest permanent budget growth in the region of an extra £2.0 to £2.5 million per annum would be required¹.
- 1.20 The Report asks the States to agree that the Education Department's HE budget should continue to be ring-fenced and should be increased, without detriment to the other Education Department separate cash limits.
- 1.21 If the States do not support this additional investment, the alternative option that the Department is prepared to consider, by a majority, is the introduction of a student contribution/student loans, under the system proposed in section 4 of the report.
- 1.22 A range of issues has been identified from the recent consultation exercise. By a majority, respondents felt:
- that student numbers should not be restricted and that the education budget should not be cut to fund higher education;
 - less resistance towards a student contribution of up to £3,000 per annum, than up to £5,000 per annum

¹ Modelling results carried out by BWCI in 2006, were presented in 2006 terms; all further modelling work undertaken in 2007 is also given in 2006 terms for ease of comparison with the original modelling results.

- that the level of student contribution should be the same for all courses, irrespective of course studied;
- support for linking student repayments to income so that students would not have to repay their loan until their personal income reached a certain threshold;
- the States should investigate the contribution of separated and divorced parents to take into consideration the income of an absent parent or the income of a new spouse/partner.

1.23 The consultation process, the current report and the November 2006 report all examine the possible options that are available to address the growing funding shortfall. Three options have been investigated:

- the possibility of a States of Guernsey Bond Issue to raise capital, which emerged during meetings with the business sector;
- the possibility of introducing a lower level of loan similar to the model proposed by Jersey; and
- concern that administration costs associated with the proposed scheme were excessive.

The findings from the consultation are summarised in Appendix I.

1.24 The Department asked BWCI to model a range of possible loan schemes following the consultation. This was done in three broad phases with varying loan levels, repayment periods, and parental contribution levels, with or without administration costs, capital sources and varying levels of budget. A detailed summary of the various models is given in Appendix II of the report and copies of the individual reports are available on-line at www.education.gg

1.25 After due consideration, the model the Education Board recommends by a majority, is a student contribution of £3,000 per annum from 2009 towards tuition fees (in real terms, i.e. the amount would increase annually by inflation), for which students would be offered a loan. (Students could opt to take out a loan towards part, or all, of their contribution). The recommended repayment period is 12 years after graduation. All students will be required to meet the same level of costs towards their assessed tuition fees. The interest rate will be base rate while studying and base rate plus 1% thereafter.

1.26 The models of greatest interest are those of 20th June, 26th June and 21st September. All these models assume a student loan of £3,000 per annum in monetary terms as at September 2009. The 26th June model illustrates the effect of having an extra £0.5 million revenue for Higher Education on the borrowing requirements of the Guernsey Student Loans Company. The model of 21st

September was requested by T&R and is a variation of the 20th June model. The model provides for funding for the expenditure from the Education Department budget to be shown completely separate from the GSLC borrowings; expenditure which is to be met by a loan from GSLC is ignored as it does not affect the Department's position.

- 1.27 The purpose behind the 21st September model is to demonstrate that the only 'transfers' that should be made from the Education Department budget to the Student Loans 'Fund' would be if there was any shortfall in the amount of 'turn' (i.e. the amount students are charged after completing their studies is a higher interest rate than that charged by Treasury and Resources to the GSLC) compared to the administrative costs of the GSLC (directors fees, etc). As a result, the amount of loans owed to the GSLC is, after the first few years of the scheme, always at least equal to the amount borrowed from Treasury and Resources. Write-offs are assumed be funded by the Education Department Budget (though currently not included in the expenditure profile) but there appears to be scope to accommodate these and other potential costs if the BWCI projections are borne out.
- 1.28 If the States favour the introduction of a student contribution over an increase in the Department's budget, the Department is recommending:
- the States approve the formation of a Guernsey Student Loans Company (GSLC) as a Special Purpose Company (SPC) to administer student loans as explained in the core of the report;
 - the States agree that the Directors of the Company shall be recommended by the Board of the Education Department, shall include representatives of Treasury and Resources, and that the Directors of the GSLC are approved by the Treasury and Resources Department;
 - the States approve the introduction of the necessary enabling legislation by amending the Education (Guernsey) Law 1970;
 - regulations are introduced by Statutory Instrument for a student loans scheme in accordance with this report;
 - the States direct the Law Officers to prepare the necessary legislation in accordance with the provisions outlined in this report;
 - the States agree that student loan interest should be subject to tax relief in Guernsey; and
 - the Education Department be directed to report back to the States on the operation of the student loans scheme not later than five years after implementation in 2009 of the loans system.

2. *Higher Education Consultation*

- 2.1 The Department launched its second phase of more detailed consultation on higher education funding in February 2007. The results were circulated to States Members in July 2007 and published towards the end of that month.
- 2.2 From the detailed responses provided by both the Island-wide postal sample and those who were voluntary respondents, it is evident that respondents understood many of the issues faced by both the Education Department and students concerning the provision of funding in the future. The challenge for the Education Department has been to take on board as many of the diverse comments and key points as possible when preparing the States Report. The main findings arising from the analysis of the consultation questionnaires are given in Appendix I.

3. *The Financial Imperative*

Section Overview

- *The Education Revenue Budget explained*
- *Limited scope for further savings in the Education General Revenue Budget*
- *Limited scope for further savings in the HE budget*
- *Review of Higher Education Funding in 2001*

- 3.1 There is a clear need for control and prioritisation of expenditure. The States have recently reaffirmed their intention to keep States expenditure to 2005 levels in cash terms. Any move to increase the Higher Education Budget to the levels envisaged to meet future demands would require considerable reductions in other States revenue expenditures rising to in the region of £2.5 million per annum in 2006 terms.

The Education Revenue Budget Explained

- 3.2 The Education Department is responsible for a Revenue Budget comprising three separate cash elements. It is not permitted to amend these cash limits. For example, by increasing one cash limit at the expense of another. Each sum is considered to be ring-fenced. The three separate elements are:
- The General Education Budget.
 - Grants to Colleges and Libraries.
 - Higher and Advanced Education.

- 3.3 Since 1994, the Higher Education Budget has been a separate ring-fenced cash element. The Education Department believes it is appropriate for the three cash limits to remain separate and that they should continue to be ring-fenced.
- 3.4 The Education Board has faced considerable financial difficulties since 2006 in terms of containing expenditure within much reduced cash limits on its General Budget. These problems remain and it is not possible to support the HE Budget from a budget which itself is under great pressure.

Limited Scope for Further Savings in the General Education Budget

- 3.5 a) **General Education Budget** – The General Education Budget covers revenue expenditure on all States and Voluntary Aided schools, the College of Further Education, central education support services and administration. The effects of a lower than required budget settlement in 2006 (the increase was only 1.46%) are still being felt and the Department has had to consider savings in the region of £2.5 million to contain expenditure within allocated cash limits. The 2007 budget settlement was 4.8%. Education expenditure has been running ahead of RPI, largely due to new arrangements for teachers' pay and increasing fuel costs.

The Education Department has made major reductions in services and has reduced central staffing by 15 full-time equivalent posts in 2006 and is continuing to assess ways in which to reduce expenditure.

- b) **Grants to Colleges and Libraries** – The Colleges grants have been set by States resolution, by which the Department is bound. The current funding methodology was introduced in 2005 and is due for review in 2009.
- c) **Higher and Advanced Education Budget** – This budget was established as a separate cash limit in 1994. Unless alternative funding sources are considered to continue to provide grant aid for students, it is essential that any university fee increases and increases in general living costs are allowed for in subsequent budget settlements.

Limited scope for further savings in the HE budget

- 3.6 The HE Budget of £6.5 million funds other areas of further and higher education expenditure. This includes:

Approximate Figures	2005	2006
Postgraduate	330,000	*330,000
College of Further Education (FE)	152,000	137,500
Special equipment	70,000	52,300
Travel and fieldtrip grants	24,000	29,750
Open University	14,000	11,300
Interview expenses	10,000	7,000
Off-Island Further Education	250,000	378,600
Apprenticeships	34,800	53,100
Teacher training	24,000	44,000
HE Funding Consultation		2,850
Total	908,800	1,046,400

* Not comparable figure. 2005 figure has been used as an estimate for future projections.

- 3.7 This expenditure also continues to rise and the effect of inflation needs to be added to these figures. The Department believes there is very limited opportunity to reduce expenditure in these areas without unfairly disadvantaging some students.
- 3.8 Approximately £5.5 million is available to cover expenditure on undergraduate higher education awards. This lower figure is used throughout the actuarial modelling described in this report, because there is little scope to reduce these other elements of expenditure in the HE budget.

Review of Higher Education funding in 2001

Section Overview

- *The 2001 SEC Report on Student Grants*

- 3.9 The Education Council (SEC) submitted a report to the States in May 2001 on the subject of student grants.
- 3.10 The report acknowledged the possibility of student loans but recommended that:
- the States should continue to support students by means-tested grants instead of loans;
 - the grant rates should be increased in real terms to reflect students' actual essential living costs in term-time;

- the allowances used in the calculation of family income should be raised to increase the grants payable to students of parents on incomes above £17,500², (middle income families);
- independent students should receive maintenance grants in the first year of the course (previously students had to meet their first year living costs out of their own resources); and
- the Council be authorised to increase annual expenditure of awards by £438,000.

3.11 After consideration of the Report, the States resolved:

- To approve the States Education Council's proposals to improve the value of student grants and to reduce parental contributions as described in that Report.
- To direct the States Advisory and Finance Committee to take due account of the additional costs arising from those proposals when calculating and recommending to the States the revenue expenditure limit on the States Education Council's budget for advanced and higher education for 2002 and subsequent years.

3.12 These principles are still endorsed by the Education Department.

4. *Developments since the 2001 report*

Section Overview

- *The growing financial commitment*
- *Options to meet the funding shortfall*
- *Other factors*
- *Financial modelling (BWCI)*
- *States of Guernsey Bond Issue*
- *Clearing banks*
- *The preferred model*

² In 2007, single parent families pay nothing if they earn less than £25,736 (2 parent families pay nothing if they earn less than £32,147). These disregard levels increase if there is more than one child in the family.

- *Consideration of cash flows*
- *Loan Administration*
- *Requirement to amend Education (Guernsey) Law 1970*

The Growing Financial Commitment

- 4.1 The number of awards granted has continued to grow in recent years and the Education Department faces a growing financial commitment in the next few years, for the reasons outlined in the introduction to this report. In 2005/06 there were 765 undergraduate students studying off-Island (this figure excludes students on further education and postgraduate courses). This has increased to 806 for the 2006/07 academic year.
- 4.2 The Education Department, its Lifelong Learning Committee and the Guernsey Training Agency consider it essential to the well-being of the Island's economy that a vibrant, largely unrestricted higher education offer is available. This was accepted by the States as a whole in the debate on the Government Business Plan. The Education Department asks that the States continue to offer higher education awards under the current system by increasing the Department's Budget.
- 4.3 It is equally aware of the restrictions imposed on States spending and that funds may not be available to increase the higher education budget to a level sufficient to remove the need for a system of student loans. Introducing student loans will mean greater costs for families. Loans may also act as a deterrent to anyone considering university. If this happens it will be against the aims of the Education Department, which wishes to:
- encourage young people to stay on in learning;
 - encourage adults to engage in Lifelong Learning.
- 4.4 The Department proposes that, should the States support the introduction of loans, students should be allowed an adequate amount of time to repay any loans they might have to take out.

Options to meet the funding shortfall

The Higher Education budget is increased.

- 4.5 A commitment has already been given to keep the present system of grant aid in place until September 2009. Any decisions taken in this report affect students from this point onwards. Actuarial projections suggest that for the years immediately after this point, a budget in the region of just under £9 million in

real terms (i.e. today's/2006 prices) would be required in the immediate short term. Long term, the figure rises towards £9 million in real terms. The figures exclude the cost of administration of a loans scheme since this would no longer be relevant.

The number of students going to university, and receiving States support, is cut dramatically.

- 4.6 To align projected spending with budget - at least £2.5 million in cash terms - would require a drastic restriction in student numbers. The consequences would be that many students who had achieved their grades and won a place at a recognised public sector institution in the UK would no longer be able to attend. The Department would have to be selective, refusing students on the grounds of the grades achieved, subject studied, career choice, location of study, applicability of course to the Island's economy or some other criteria.
- 4.7 This would run counter to the Education Department's objectives for lifelong learning and would place Guernsey students at a disadvantage compared to their UK and international counterparts. It would also prove very difficult to administer as it would be based on subjective assessments of worth and would leave the Department open to judicial challenge. The recent Island-wide survey revealed that respondents were firmly against any restrictions. The Department is also firmly against this proposal.

Increasing the parental contribution

- 4.8 The Department considered whether raising parental contributions could address the funding shortfall. It concluded that this was both unlikely and probably undesirable. Raising parental contributions above the current levels would not generate the income required, as a significant proportion of parents assessed at the maximum contribution are effectively paying almost the full costs of tuition. It also ran counter to the family perspective and the Education Department's commitment to the corporate anti-poverty programme, as the financial impact would be immediate, whereas a loan at least gave some breathing space and time for the family to adjust its financial circumstances.
- 4.9 To introduce the same level of loan for each student, which was supported in the consultation exercise, will result in some parental contributions dropping slightly. This will occur where the parental contribution to fees and student contribution exceed the course fee and the actual charges made by the University.

Student Loans are introduced from September 2009

- 4.10 This would be applicable to Guernsey and Alderney students studying further education, undergraduate and postgraduate courses outside the Bailiwick who had not commenced their course at April 2006.

Other Factors

- 4.11 Other factors which the Board has been required to give further regard to include: concerns over the cost of administering any loans scheme; the States of Jersey student loans scheme: matters arising from the consultation, in particular the idea of raising loan capital from a States of Guernsey bond issue, and the opinion put forward that all students should be required to take out the same level of loan. These issues have been explored with BWCI in the various models produced since September 2006.
- 4.12 In addition, there was strong support from the HE funding consultation results that the States should investigate the contribution of separated and divorced parents to take into consideration the income of an absent parent or the income of a new spouse/partner. The Education Department has written regarding contributions from separated, divorced and remarried parents to the Chief Minister, who has in turn written to the Law Officers and the Island's Batonnier. The Department has been advised that a review of the Island's matrimonial law is required before it could insist on a parental contribution being made by an absent parent. This would be a large piece of work.
- 4.13 The Education Department intends to write again to the Policy Council to discuss whether a review of the Island's matrimonial laws could be progressed. This would be subject to a resolution by the States, to assess whether absent, i.e. separated/divorced, parents can be asked for a parental contribution towards the costs of their biological children's further and higher education costs. In conjunction with this, the Law Officers and the Island's Batonnier would be asked to look at the definition of parent in the Education Law to see if, as an alternative to the above policy, the Department could assess household income in cases where the parent with whom the child lives has remarried or has a new partner.

Financial Modelling (BWCI)

- 4.14 The Education Department commissioned BWCI to undertake detailed financial modelling. A summary of the models examined is contained in Appendix II and the results are provided as a separate paper with this report. BWCI was asked to explore and report on the feasibility of introducing a student loan scheme in Guernsey and to recommend a loan system that would meet the Department's concern regarding an acceptable level of student debt upon graduation and a reasonable repayment period to avoid undue hardship post university.
- 4.15 When the Department initially approached BWCI, it was optimistic that should loans be introduced, it would be at a level below those taken out by students in England. (Students in the UK were required to pay £3,000 towards their fees and maintenance grants were lower than the Guernsey allowance at £2,700 per annum, resulting in the necessity of a similar level of loan being taken out by the

student for living expenses, or else the student had to find temporary employment. The two government loans were, and still are, combined so that a student's repayments are easier to manage.) When the Department received the BWCI results it had to revise its earlier thoughts.

- 4.16 The initial modelling by BWCI (September 2006 report) confirmed that unless the States could afford to increase the budget year on year, there would be no other option other than to fund the projected shortfall by introducing student loans and closing some of the shortfall by increasing parental contributions. The initial modelling used data from 2005 and the latest modelling includes 2006 cohort data and a higher parental contribution rate (this was agreed by the Education Department Board in December 2005 to take effect from September 2006, as part of the annual grants uprating). The higher parental contribution rate has improved the overall financial position by £200,000 p.a. on the earlier projections.
- 4.17 The Board has considered numerous options in its search for a suitable loan scheme. It has been difficult to find a scheme that would bridge the funding gap but at the same time would not put too much financial burden on students during and post university education. The initial loan level suggested in September 2006 was £4,500 with a 15 year repayment term.
- 4.18 The Board felt this left students with too much debt after studying and the majority of respondents in the consultation exercise also felt this level of loan inappropriate. The Board modelled half this amount with a repayment term of seven years, to reduce interest payments to students. The model also considered the effects of administration charges on the overall amount owed by students and also considered the option of having all students having the same loan - see BWCI letters dated 13th and 16th April 2007.
- 4.19 This level of loan (£2,250) proved to be too low. It required a significant increase in the Department's budget to be sustainable. The investigations into a lower level of loan revealed a more equal/fair method of applying contributions. The lower amount meant it would be easier to consider a student contribution first, i.e. the student contribution would be applied to higher education costs/course fees first, before any parental contribution and Education Department grant. In turn, this would mean that students all had the same level of loan. This was something strongly supported in the consultation responses.
- 4.20 The Board examined other alternatives. The level of loan was increased to £3,000 (in monetary terms in September 2009) and a longer repayment period (12 years after graduation or roughly 15 years after starting the course and drawing a loan) was considered. The results are considered in the BWCI models dated 20th and 26th June 2007. The modelling of 26th June also considered an increase of £0.5m in real terms in the HE budget and the impact of raising capital from a States of Guernsey bond issue.

- 4.21 This level of loan reduces the principal sum borrowed by the student, the level of accumulated debt at graduation and the average monthly repayment for students, when compared with the initial scheme in September 2006. The 26th June letter also considered the effect of applying an average increase in the budget of £0.5 million in real terms. The effect was to reduce working capital from the initial requirements of £27 million to £12 million. The Board considered this benefit to be significant, and that it outweighed some of the negative aspects e.g. of higher administration costs which arise from giving students a longer repayment period and the increase in States expenditure caused by a reduction in some parental contributions (one consequence of all students having the same level of loan).
- 4.22 The Board next considered the issue raised at one of the consultation meetings: the possibility of raising capital through a States of Guernsey Bond Issue. Working capital is required to advance the loan to students since there is a time delay in States outlay and recovery of debt. This issue was examined and the Board also included in its examination the effects of borrowing from the Treasury and Resources Department (i.e. as in the original model) and the possibility of using clearing banks; in which case, the loan capital would be advanced by the banks. This last option had its attractions, but the banks had previously shown a lack of interest in being part of such a scheme when it was first mooted. The Board felt it was worth exploring further, given the recent developments announced in Jersey where the clearing banks were part of such a scheme.

States of Guernsey Bond Issue

- 4.23 A bond market issue was eventually rejected. Discussions with the Guernsey International Business Association (GIBA) revealed that investors in the bond issue were likely to want a return on investment at a level which meant that borrowing the money from the Treasury and Resources Department, with the return suggested by T&R, was a cheaper option for students and therefore was a better option.

Clearing Banks

- 4.24 The Board's preferred loan of £3,000, with a repayment term of 12 years after students finished their course, was modelled by BWCI. Assumptions included capital being supplied by the banks, but with the States guaranteeing the loans in case of student default. The results are given in BWCI's model dated 3rd July 2007.
- 4.25 At the same time Education representatives were meeting with the clearing banks to ascertain whether a suitable scheme could be established. It emerged that there was little flexibility that could be offered. The banks would be using standard products to do this as cheaply as possible. Guernsey could be offered the Jersey scheme, but with a variation on the loan amount. Furthermore, the maximum repayment period that could be offered was seven years. This was

slightly better than the five years offered in the Jersey model, but not long enough considering the higher loan levels Guernsey students would have.

- 4.26 This effectively destroyed any hope of using the banks to establish a Guernsey scheme; even with a lower level of loan - £2,500 per annum - monthly repayment levels were considered far too high. A student on a four year course would have a loan on graduation of £9,797 and monthly repayments of £149 (in today's prices). The clearing banks offer is summarised below:
- 4.27 Maximum amount £3,000 p.a. x study term:
- Interest 1% above base rate.
 - Maximum Term 7 years from completion of study.
 - Omnibus Guarantee to be provided to each bank by the States of Guernsey.

The Preferred Model

- 4.28 The Department's preferred model is contained in BWCI's letters dated 20th and 26th June, clarified further in 21st September BWCI model which separated the loan to fees from the Education Department's expenditure.
- 4.29 The student contribution/loan amount of £3,000 per annum in 2009 is equivalent to £2,722 in 2006 terms, when the models first started to be produced. The student contribution is matched against course fees. All students will make a contribution of £3,000 per year (increasing in line with inflation) towards which they will be offered a loan, which will be applied before any parental contribution. The repayment term is 12 years after the course finishes or the student withdraws from the course. The interest rate will be base rate while studying and base rate plus 1% post graduation, with repayments commencing on the 1st January following graduation.
- 4.30 The Department will draw down funds from the Treasury and Resources Department and will be charged the States Treasury rate, which is slightly above base rate (an approximation of base rate plus 0.25% has been used for modelling purposes), as the cost of borrowing. Modelling undertaken on 20th June (phase 5.1) assumed a budget of £5.5 million for undergraduate awards and modelling conducted on 26th of June assumed an increase of £0.5 million 2006/real terms. The effect of this on Department expenditure on grants and expenses is shown graphically for both models (Department expenditure on grants and expenses vs. budget). The modelling undertaken on 21st September is on the basis of a £5.5 million budget for undergraduate expenditure. (Note: an additional £1.0 million in 2006 terms is also required – see paragraph 3.6).
- 4.31 With a budget of £5.5 million the Department is likely to be able to sustain a

scheme, assuming all of BWCI's assumptions are borne out, to 2017; while an increase in budget of £0.5 million would allow the model to be sufficient until 2024 onwards.

- 4.32 There are costs associated with administering the scheme and, after lengthy and detailed discussions with various providers, the Department's preferred option is to use Cherry Godfrey as administrator. More details are provided later in this section and the role of the administrator is explained in Appendix III.

Consideration of Cash Flows

- 4.33 The Department currently receives a Higher Education budget of £6.5 million of which £5.5 million is allocated to cover expenditure on higher education undergraduate awards. The remainder of the budget covers expenditure on other areas described earlier in the Report in paragraph 3.6.
- 4.34 The projected States outgo for undergraduate students for the first years of the scheme is about £8.0m in 2006/real terms, against a budget of £5.5 million - see graph titled: "Net Expenditure", and projections for outgo in the 20th June BWCI Report.
- 4.35 The GSLC net borrowing position varies according to the level of budget set by the States. A £6.0 million net budget position is shown in the 26th June letter from BWCI. A £5.5 million net budget position is illustrated in the 20th June and 21st September letters.
- 4.36 In the first few years of operation, although not clearly visible from the graph (GSLC Net Borrowings-21st September BWCI Letter), the GSLC will have slightly negative net borrowing because the interest rate charged to students pre-graduation is assumed to be lower than the interest rate the GSLC is charged. Over the longer term, as students graduate, they will be charged higher interest than the GSLC and the GSLC will move to a position of positive net borrowing. However, there will be some small costs associated with running the GSLC and these are expected to be met from this interest differential. If this is the case, the GSLC would be in a position where the amount it owes to Treasury and Resources is at least equal to the amount on loan to students.
- 4.37 The costs of administering the scheme, for example issuing loans and monitoring repayments are borne by the Education Department and not passed on to students.

Loan Administration

- 4.38 At an early stage it became evident that if Guernsey students were to receive part of their public funding through loans, it was essential that the loans be administered and recovered efficiently and effectively. Members and officers met a wide variety of organisations to discuss the feasibility of a loans scheme.

- 4.39 Meetings were held with the UK Student Loans Company [SLC] (of which the original shareholders were the DfES and the Scottish Executive), the Department for Education and Skills, the Jersey Department for Education, Sport and Culture, Isle of Man Education Department, and representatives of several finance companies and banks.
- 4.40 After several months of negotiation and a good deal of agreement over plans to utilise the services of the UK Student Loans Company for a Guernsey scheme, the plans had to be abandoned when the then DfES failed to give their agreement. This was due to fears that the DfES had that the SLC was already engaged in major change issues and taking on Guernsey's requirements could jeopardise these developments or at the very least delay them.
- 4.41 The task of loan administration must be entrusted to an organisation with experience in this field of work. The Department proposes to entrust this work to a suitably experienced administrator. A tender exercise was undertaken and Cherry Godfrey Finance has been selected as the preferred provider. To oversee the work of the administrator, the Department proposes that the States establish a new special purpose company titled, "*The Guernsey Student Loans Company*".
- 4.42 This would be a new entity, which would be able to concentrate on effective and efficient administration of all aspects of the new loans system, while remaining distinct and separate from the Education Department. The Guernsey Student Loans Company, while not exactly mirroring the UK Student Loans Company, would undertake many similar functions.

The roles and responsibilities of the administrator are discussed in more detail in Appendix III.

Clearing Banks and the Jersey Scheme

- 4.43 Jersey has introduced a loan scheme operated by the clearing banks. The loan amount is £1,500 per annum and the repayment term five years after graduation. The Department discussed running a similar option in Guernsey with the banks representatives in Guernsey but has rejected the idea for several reasons. The banks were unable to offer the degree of flexibility required and this meant repayment terms were too rigid. The loan amount proposed is twice the amount of Jersey's and the Department wanted a repayment term twice the length of Jersey's. The banks were unable to accommodate this. More serious problems potentially existed with collection from write-off onwards. Jersey is required to guarantee loans, but, once it has paid off a loan to a bank, under the guarantee for a defaulter there is still a requirement to pursue the debtor. Guernsey would have been required largely to follow Jersey's arrangements with the banks.
- 4.44 The Department compared costings: the loan would either have to be pursued in-house and more staff employed to do this or else a loan administrator would need to be engaged to follow up the debt. The Department considered it was much better to appoint an administrator from the outset. It would prevent

fragmentation caused by students having loans with various banks, it would allow Guernsey to develop a flexible scheme with repayment lengths and interest rates it wanted and it would provide students with a one-stop shop dealing at a much greater and personal level with their issues, and it promised a degree of stability which could not be guaranteed if the clearing banks route was pursued.

- 4.45 The Education Department is convinced that Cherry Godfrey will be the best cost option in the medium to long term when the additional costs of collection and other issues around lack of flexibility are considered.

Cherry Godfrey

- 4.46 The Cherry Godfrey scheme has many advantages. The company is very experienced in this area. It offers one company in one location for all students and it is proposed that initial interviews (know your customer) will be undertaken with all students at the outset. There will be a local point of contact for each student and family, ensuring that regular, personal contact is maintained, issues regarding repayment are picked up at an early stage, thereby lessening the potential for bad debts. It allows the States to change schemes when required so offers flexibility, lacking in a clearing banks arrangement. The States will own the data and has the option of transferring the operation to another provider, at minimal cost, should it become necessary.
- 4.47 The costs of the scheme are transparent. Cherry Godfrey will effectively be operating a joint venture with the Guernsey Student Loans Company. The Department has agreed a review after three years of operation on an open book arrangement. If it is felt services are too expensive and Cherry Godfrey are making excessive profits, the charges can be reviewed downwards only. The directors of the GSLC will be responsible for the review.
- 4.48 The Department believes the service offered by Cherry Godfrey is the most advantageous for both the States and students and, therefore, is the recommended option.

Advantages of Creating a Company for Student Loans

- 4.49 The Department considers it desirable for the States to establish a separate company through which to operate a loan scheme with Cherry Godfrey. The advantages of this are:
- a) a separate identity in respect of the making and recovery of loans, and an identity that is distinct from the Education Department;
 - b) the constitution and powers of the Company will be established in its memorandum and articles of association;

- c) the funding would be at arms length with (or from) the States;
- d) the Company would probably find it easier to operate within the commercial sector and raise finance from external sources (if this ever became necessary) or if that was felt to be desirable, although any funding institution providing finance would probably require a guarantee from the States;
- e) the Board would be made up of both political and commercially experienced representatives at a nominal cost that would ensure good corporate governance of the loan service. There is a distinct advantage in having a board of directors recommended by Education and approved by the Treasury and Resources Department, whose main role would be to oversee the entire loan service and to monitor and govern the services provided by the administrator.

4.50 The relationship between the States and the Company will need to be established, but the likely scale of the loan scheme suggests that such a structure is appropriate: the larger the operation is likely to be, the more benefits the Department envisage there will be in establishing a separate Company to run it. The establishment of a loans scheme will require an amendment to the existing Guernsey Education Law.

Requirement to Amend the Education (Guernsey) Law, 1970

- 4.51 In discussions with the Law Officers, the Education Department was advised that if a general scheme of student loans were to be introduced, it would be necessary to amend the Education (Guernsey) Law, 1970 and a recommendation to that effect appears in section 7 of this report.
- 4.52 The Education Department derives its power to award grants from Section 49 of the Education (Guernsey) Law, 1970.
- 4.53 Amongst other provisions, Section 49 authorises the Department to grant allowances in respect of persons pursuing a course of education at a university, university college or other like institution or at any place of further education and in respect of persons pursuing a course of training a teachers or pursuing correspondence courses in subjects of further education.
- 4.54 The Department has been advised that new legislation will be needed to provide the necessary authority for a comprehensive system of student loans. Even if loans are not introduced at this time, the Law Officers advise that an enabling legislative amendment should be made regardless of whether or not the States approve the loans scheme. This would mean that the States could introduce loans in future, subject to States approval, without delay.
- 4.55 The Department recommends that part of the aforementioned Section 49 be

repealed and that the 1970 Law be amended. The amendment to the Law would contain the following provisions:

- Up to date definitions of further and higher education.
- The Education Department will be authorised to provide, in accordance with regulations (by way of statutory instruments laid before the States), financial assistance by means of grants and loans for full-time and part-time courses of further and higher education. The regulations would prescribe:
 - a)
 1. the costs for which assistance would be available;
 2. the amount of grant and loan available to the student;
 3. the courses in respect of which assistance is available;
 4. the conditions which a person must satisfy to qualify for assistance, including his age, period of residence in Guernsey (or Alderney), and educational qualifications;
 5. the calculation of any contribution that that person or his parents, spouse or partner are required to make;
 6. in the case of a loan, the conditions on which it is given, the rate of interest applicable to the loan, the time and manner in which repayments are to be made, and the circumstances in which the borrower's obligation to repay made be deferred, modified or cancelled;
 7. other such matters that may be necessary for implementing the loans scheme;
 - b) how the Department will be authorised to appoint another entity or entities to manage and administer any loan and to recover any loan for the States;
 - c) a change to the Law to enable the sale of any debt, subject to resolution of the States;
 - d) how the Department will be authorised to provide, by resolution of the Board of the Department, grants to persons pursuing courses of further and higher education, other than by full-time study (e.g. by distance-learning) and will be authorised to determine the conditions on which grants are available;
 - e) how the Department will be authorised to make special

arrangements to assist persons taking initial courses of teacher training, including power to make financial assistance dependent upon employment in the service of the Department or of any other educational institution in Guernsey.

Extending To Alderney

- 4.56 The amendment to the Education (Guernsey) Law, 1970 would be extended to Alderney by ordinance made under the Alderney (Application of Legislation) Law, 1948.

Income Tax

- 4.57 In addition, if the States opted for income contingent repayments, changes would be required to the Income Tax Laws, to permit the Income Tax Department to facilitate the collection of loan repayments, e.g. by requiring employers to deduct student loan repayments from employee salaries and remit to the Income Tax Department.
- 4.58 By a majority, the Department favours non income contingent repayments. Instead, repayments would take place over a fixed 12 year repayment term, but students who felt they could not meet the required repayments would have the opportunity to negotiate repayment terms on an individual basis.

5. *Estimate of Additional Funding Required*

- 5.1 This section provides an estimate of the budget that will be required for Higher Education Funding for the next five years and the assumptions upon which these estimates are based.
- 5.2 The amount needed when all higher education expenditure is taken into consideration, in real/2006 terms by academic year, would be as follows:

	2007 £m	2008 £m	2009 £m	2010 £m	2011 £m	2012 £m
Undergraduate expenditure (2006 terms) from 26 th June 2007 BWCI projections	5.9	6.7	7.7	8.0	8.1	8.2
Minus loan admin costs gives	5.9	6.7	7.5	7.8	7.8	7.9
Plus other HE expenditure	1.00	1.00	1.00	1.00	1.00	1.00
Total HE Budget in real/2006 terms	6.90	7.70	8.5	8.8	8.8	8.9

In 2007 monetary terms, using BWCI's 3.3% annual inflation assumption (NB inflation/RPI will still need to be added on in future years):

	2007 £m	2008 £m	2009 £m	2010 £m	2011 £m	2012 £m
Total HE Budget in 2007 terms	7.13	7.95	8.78	9.09	9.09	9.19

Adjusted to calendar, rather than academic years, but still in 2007 terms:

	2007 £m	2008 £m	2009 £m	2010 £m	2011 £m	2012 £m
Total HE Budget in real/2007 terms	6.58	7.40	8.23	8.88	9.09	9.12

Inflation/RPI will still need to be added on in future years. Using BWCI's general inflation assumption of 3.3% per annum, the annual HE budget required in 2012 will be just over £10.5 million.

5.3 The above HE budget estimates are based on a number of assumptions, as explained in the BWCI reports. If there are any changes when these assumptions are borne out in practice, then HE budget requirements could vary in the future. These assumptions include:

- that the 2005/06 and 2006/07 Guernsey and Alderney university student cohorts are representative of future cohorts, e.g. in terms of parental income and types of courses studied (specifically length of course and course tuition fee bands);
- that future tuition fee increases do not run at more than 1.5% above general inflation annually;
- that the projections made by BWCI with respect to future participation rates and student numbers are broadly borne out in practice;
- general inflation in the UK of 3.3%.

Please see the BWCI reports for details of further assumptions.

6. Conclusions

6.1 The Department maintains the same view it held in 2001 and it still holds with the principles it expressed in its Policy Letter at that time. The principal

recommendation in this report is to seek more funding from the States. If this is not achievable, a system of student loans should be introduced to ensure that any student who is offered a place can take up that place and those most in need of financial assistance continue to receive it.

6.2 The Department still considers that it is highly desirable within a modern society that as many of its citizens as can benefit from higher education have the opportunity to do so. A highly educated society possesses a number of key assets:

- competitiveness in a world where globalisation is increasing the economic competition between communities and where businesses have increasing opportunities to relocate;
- a high level of ability among its citizens to respond to changing technology and modes of work through the acquisition of new knowledge and skills;
- the potential to overcome poverty;
- the potential to sustain a high quality of life.

The Department's recommendations are predicated on this basis.

7. *Recommendations*

7.1 The Education Department recommends the States to:

1. approve the additional funds for the Education Department's total Revenue budget, to permit the ring-fenced Higher Education Budget to be increased annually in line with demand;
2.
 - a) approve the introduction of the necessary enabling legislation to permit the implementation of student loans at some point in the future by amending the Education (Guernsey) Law, 1970;
 - b) direct the Law Officers to prepare the necessary legislation in accordance with the provisions outlined in this report.
3. If recommendation 1 is not accepted, the Education Department recommends the States to:
 - a) approve the principle of a new scheme of student contributions to tuition fees;
 - b) approve the establishment of a student loans scheme, as set out in this report, with the expectation that the maximum loan value will

not increase in real terms for a minimum of five years;

- c) note the Education Department's view that up to an additional £0.5 million per annum may be required in the future;
- d) direct the Treasury and Resources Department to take account of the costs of the new scheme for funding Guernsey and Alderney students attending courses of further and higher education outside the Bailiwick when recommending to the States, Cash Limits for the Education Department – Higher and Advanced Education for 2009 and subsequent years, subject to a maximum Cash Limit of £7 million at 2006 values, maintained in real terms;
- e) approve the formation of a Guernsey Student Loans Company (GSLC) as a special purpose company to administer student loans as explained in this report;
- f) agree that the Directors of the Company shall be recommended by the Board of the Education Department, shall include representatives of the Treasury and Resources Department, and that the Directors of the GSLC are approved by the Treasury and Resources Department;
- g) agree that the Education Department introduce regulations by Statutory Instrument for a student loans scheme in accordance with this report;
- h) agree that student loan interest should be subject to tax relief in Guernsey and this should continue beyond the 2008 tax changes; and
- i) agree that the Education Department be directed to report back to the States on the operation of the student loans scheme not later than five years after implementation in 2009 of the loans system.

Yours faithfully

M A Ozanne
Minister

APPENDIX I**Consultation findings**

- The majority of respondents were against cutting the compulsory education budget.
- The majority were against restricting student numbers and student choice.
- Respondents were against increasing parental contributions, but if this had to be done then the maximum parental contribution to fees/upper limit should be increased.
- The States of Guernsey should investigate the contribution of separated and divorced parents to take into consideration the income of an absent parent or the income of a new spouse or partner.
- Nearly half of the postal sample (48.4%) said that students should make a contribution to their higher education (39.7% were against).
- There was less resistance to introducing a student contribution of up to £3,000 per year. A contribution of up to £5,000 was considered too high. If a student contribution were introduced, then respondents felt a loans facility should be made available.
- By a majority, respondents felt the student contribution should be the same for all courses.
- The postal sample indicated that students and their parents should be prepared meet the forecasted increased expenditure on higher education costs. Those who volunteered to answer the questionnaire, i.e. those who were not part of the random sample, thought that increasing higher education costs should be met by the taxpayer and by a reduction in States expenditure other than in Education.

The following suggestions also received some support:

- students should be required to contribute to their own tuition fees while on a work placement year;
- the Department should not support an intercalated year for medical students;
- independent students should be required to contribute to their first year of study based on their earnings in previous years.

Regarding repayment plans if student loans were introduced, there was support for the following:

- there should be an opportunity for students on low incomes after graduation to negotiate personal repayment plans on an individual basis;
- all student loan repayments should be linked to income so that students do not repay until personal income reaches a certain threshold;
- students who go on to postgraduate study should not have to commence repayments whilst studying.

The voluntary returns disagreed with, and the postal sample was split on, the following points:

- student loans should be repaid over a fixed term (but with a minimum monthly repayment); and
- if students go on to postgraduate study or negotiate an individual repayment plan, interest on their loans should continue to be charged so there was an incentive to start repaying. The full report is available from a variety of sources and on-line - see paragraph 1.7 for details.

APPENDIX II**BWCI Models**

This attachment discusses the various models considered by the Higher Education Working Party and some of their findings. The full reports are available on-line at www.education.gg.

BWCI modelling took a number of phases.

Phase A

13th April Option 1 – Original scheme, but with a lower level of loan and shorter repayment period than in original proposal:

- a loan of £2,250 per annum in 2006 monetary terms (increasing each year in line with inflation (approx £2,458 in 2009);
- parent contribution deducted first, then student contribution;
- a seven year repayment term after graduation (at the time, this was thought to be the repayment term for the Jersey model; this has now been reduced to five years);
- interest rate of base rate whilst studying and base rate plus one percent once studies have finished;
- administration expenses as per 2006 tender exercise (i.e. £250 per annum for a new student and £160 per annum for an existing student, increasing in line with inflation);
- cost of borrowing the capital for student loans from the Treasury and Resources Department.

13th April Option 2 – “Jersey model”

- a loan of £2,250 per annum in 2006 monetary terms (increasing each year in line with inflation (approx £2,458 in 2009);
- parent contribution deducted first, then student contribution;
- a seven year repayment term after graduation (at the time, this was thought to be the repayment term for the Jersey model; this has now been reduced to five years);
- interest rate of base rate plus one percent;

- no administration expenses (borne by the banks);
- no cost of borrowing the capital for student loans from the Treasury and Resources Department.

16th April (Options 1 and 2)

- as above, but the student contribution is matched first to course fees; the parental contribution is matched to maintenance and any residual fee costs. This model, so far as is possible results in students making the same contribution, regardless of parental income.

Findings

- The level of loan is insufficient without an increase in the higher education budget.
- Administration costs and the cost of borrowing the capital from the Treasury and Resources Department significantly increase the Student Loans Company annual outgo and outstanding borrowings, compared to a “Jersey-type” loans scheme.
- The lower loan level means that it is possible to allocate the student contribution first before the deduction of parental contribution. This is because the lower student contribution means less of a reduction in parental contribution levels and a lower loan advance to the student and a smaller increase in the Student Loans Company outgo (this was the main disadvantage of offering the same loan to all students under the 2006 proposals).

Phase B

20th June

After consideration of the above results the working party decided:

- to run a model where the loan amount was £3,000 per annum and with a repayment period of 12 years after graduation;
- fees were adjusted to reflect fees increases expected in 2007/08 i.e. 2.6%, and not 3% as previously modelled;
- to update the interest rate and inflation assumptions in the model to take into account recent changes, such as the increase in the Bank of England base rate (Other assumptions were in line with 16th April Option 1).

Findings

- The States expenditure was higher than previously modelled because the higher level of loan to students is issued to all students before considering parental contributions. As a consequence some parental contributions were replaced or reduced by a student contribution.
- The longer repayment period meant that expenses were due for a longer period leading to higher expenses.
- Lower fees in future slightly offset these increases.
- The States income was higher than previously modelled because of the higher level of loan and a higher rate of interest charged to students: a 1% increase in the assumed interest rate compared to only a 0.3% increase in the inflation assumption.
- A budget of £5.5 million real terms was not sustainable in the long-term.

26th June

This was a similar model to 20th June. The only variation was an increase in budget to £6.0 million per annum real terms.

Findings

- In the medium term this level of loan and increased budget appeared adequate.
- Offering this level of loan to all students would increase States' initial outgo (because overall parental contributions are reduced).
- The higher loan level and longer repayment term than phase A also mean that administration expenses are increased because the number of students with an outstanding loan at any one time increases.

The HE working party felt that this loans' scheme was feasible and a possibility. Compared to the Department's 2006 proposals, it would reduce the principal sum borrowed by the student, the average student loan outstanding on graduation, and the average monthly loan repayments for many students. It would also mean a reduction in the amount of working capital required to finance the student loans company from £27 million under the original proposals to £12 million. This would be dependent upon agreement to increase the HE budget by £0.5 million per annum compared to the 2006 budget (in 2006 monetary terms), without detriment to the other Education Department cash limits. The HE funding consultation showed some support for additional funding for higher education.

The HE working Party agreed to recommend to the Education Department that in its

view an additional £0.5 million per annum in the annual higher education budget may be required to assure the long-term sustainability of the loans' scheme.

Phase C

The HEWP turned its attention next to the question of where the capital for student loans could be obtained.

A States of Guernsey bond issue was eventually rejected, as discussions with GIBA revealed that investors in the States of Guernsey bond issue were likely to require a return that was too high for the scheme to be sustainable. A bond proposal was not viewed as an economic means of securing the working capital to finance student loans. The HEWP considered two further options next:

1. whether it might be possible to borrow the capital from the Treasury and Resources Department; and
2. to re-approach the clearing banks to ask if they could offer Guernsey students a similar scheme to that now being offered to Jersey students.

3rd July

BWCI were asked to model the same scheme as outlined in Phase B, but with the assumption that the clearing banks would provide the capital for the student loans and administer the loans and their repayment; the States of Guernsey would guarantee 100% of the loan repayments.

Findings

The initial analysis revealed that if the Guernsey Student Loans Company no longer had to pay administration expenses and did not have to pay interest on the working capital advanced to students several years before repayments commenced, then it was likely that the Department could lower the annual student contribution/principal sum, even further. No allowance for defaults in repayments had been considered in the model, meaning the results were a little optimistic.

Phase D and further work

On 2nd July, the HEWP met with representatives from the Island's clearing banks. [The HEWP had met with the clearing banks in 2005, at which time the banks declined to participate in a student loans scheme]. Since then, the States of Jersey were in the process of finalising a deal with the clearing banks and so it was an issue the working party felt it must return to.

The Guernsey bank representatives were asked if they would tailor a system to meet Guernsey's requirements and at this stage it was likely that Guernsey's preferred scheme would differ from Jersey's in the following ways:

	Guernsey	Jersey
Introduction of loans	September 2009	September 2007
Principal sum per annum	£3,000 or £2,500	£1,500
Repayment period	12 yrs or 10 yrs (after graduation)	5 yrs
Interest rate	Variable at base rate whilst studying, and base rate plus 1% on completion of course	Variable at base plus 1%
Grace period before repayments commence	4-6 months	1 yr

The initial view of the clearing banks appeared to be that they would offer the same facility to Guernsey students as they were offering Jersey students, but they were unable to tailor individual products to different Islands. To move the matter forward it was agreed to compromise on the interest rate and grace period favoured by Guernsey to that which had been agreed by the banks for Jersey. Guernsey required a different loan amount and a longer repayment term. The clearing banks responded on 13th July. They would be prepared to offer the following scheme:

- loans of up to £3,000 per year;
- repayment period: seven years after graduation (fixed term repayment);
- interest rate: 1% above base rate throughout;
- grace period negotiable;
- the States of Guernsey would be required to guarantee 100% of the defaults on the loans.

Due to the savings that could be made on administration costs and the cost of borrowing the working capital from the Treasury and Resources Department, it was felt that it might be possible to offer students a loan of £2,500 a year, increasing in line with inflation. This might be more acceptable over a seven year repayment term than the loan being proposed of £3,000 per year.

The scheme differed from the scenarios previously modelled by BWCI. Further modelling was required which could look at the banks proposals and also factor in some level of student default on loans.

20th July

The loan modelled was equivalent to £2,500 p.a. in monetary terms. An allowance was made equivalent to 5% of students defaulting on loans and not making any repayments at all. The figures assumed a seven year repayment term. It was clear that retaining a short repayment period, even with a lower level of loan (£2,500 not £3,000) and no apparent administration expenses, the level of repayments for students on courses of four years or more were beyond reasonable expectations of repayment rates. They ranged from £149 per month to £230 month, depending on course length. The solution appeared to be a longer repayment term i.e. to match the higher level of loan needed by Guernsey students. The banks were again approached and this matter was put to them. The response was that it was not possible to offer anything radically different than previously mooted. The Department reverted to the options outlined in the reports of 20th and 26th June. It also noted that administration charges, though not apparent in the banks' model, would still have been incurred. Once the banks called in the guarantee, the Department had then to pursue the debt itself. On reflection, the flexibility offered in the 20th and 26th June models was strongly supported.

21st September

This model was commissioned by Treasury and Resources. The model is similar to the models produced on 20th and 26th June. The key difference is that the Guernsey Student Loans Company borrows the entire amount required to finance student loans, rather than the Department borrowing the excess over its allocated budget.

Findings

- In the short term, the Department's expenditure on grants and expenses is within budget of £5.5m (increasing in line with inflation).
- In the first few years of running, GSLC will have slightly negative net borrowings, but, once students graduate and the interest rate is increased, it soon moves to a position of positive net borrowing.

APPENDIX III**The Administrator**

At an early stage in its review the Education Department Higher Education Working Party concluded that the Guernsey Student Loans Company would need to entrust the task of loan administration (maintaining loan accounts, providing information to borrowers and recovering loans) to an organisation with experience in this field of work.

The UK Student Loans Company (SLC) was approached and the possibility of that company providing loan administration for the States of Guernsey was discussed. The Department was advised that the necessary DfES consent to such an arrangement might not be forthcoming in view of the need to give priority to expansion of the services provided by the SLC for UK central government, the devolved administrations and HE institutions.

The Department therefore decided to approach island-based businesses with the appropriate experience. Expressions of interest were sought and two companies indicated that they would be interested in tendering.

In May 2006 these two companies were invited to tender for the contract to provide a loan administration service. The Department provided each tenderer with a detailed Statement of Requirements. The main features of these requirements are as follows:

- processing of all transactions and maintenance of the static data for all borrowers and their loans;
- provision of advice and information to borrowers via e-mail, telephone and post, including administration of approved repayment terms;
- provision of an efficient recovery service;
- provision of a debt recovery service through the company's own debt recovery section or through a specialist third party;
- provision of company secretarial and accounting services for the Guernsey Student Loans Company;
- reporting on the operation of the service to the Guernsey Student Loans Company.

Outcome of the Invitation to Tender

Tenderers were asked to prepare and submit a detailed proposal with indicative costs, detailing the scope and level of service they could provide.

As well as price, eight qualitative areas were identified for assessment:

1. evidence of understanding the business requirement;
2. ability to meet all requirements;
3. ability to provide required management information;
4. efficiency and effectiveness of the proposed working method;
5. customer service commitment;
6. ability to interface/communicate effectively with users;
7. effective risk and contingency planning;
8. appropriateness of the proposed exit strategy.

Panel Members met with the two organisations prior to receipt of tenders and subsequently to clarify issues arising on their submissions. As a result of detailed assessment and overall competitiveness, Cherry Godfrey Finance Limited (hereafter referred to as Cherry Godfrey) has been identified as the preferred bidder, conditional on whether the States approve a student loans scheme, to act as the provider of administration for the Guernsey Student Loans Company (GSLC) subject to contract and approval by the States to introduce student loans.

The Cherry Godfrey Group has been heavily involved in personal lending in the Islands for over 14 years and prior to this, the principal Directors had considerable experience working in the UK, in lending, debt collection and training. This experience was gained by holding senior positions with International Finance companies.

Cherry Godfrey clearly demonstrated that it appreciated the sensitivity surrounding successful debt recovery. Cherry Godfrey has undertaken to ensure, as part of the service it offers, that all students and their parents/guardians are aware of the commitment they are entering into. Cherry Godfrey has stressed to the Department the importance they themselves place on face to face contact and each student will be offered an initial interview. By the time loans are launched (September 2009) it is also planned to have internet access to loan data available for students.

The agreement provides for the successful bidder to enter into an agreement with the “Guernsey Student Loan Company” to manage the provision and recovery of individual loans which will be funded in total by the States. The successful bidder will handle all communication with borrowers relating to the loan account and will deal with the Company on all aspects of the service.

The key elements of the service are as follows:

- Liaison with the Education Department;
 - to receive details of the borrowers and the lending arrangements.
- Liaison with the Guernsey Student Loan Company;
 - to process all loan transactions and maintain the static data for all borrowers and their loans;
 - to provide company secretarial and financial accounting services;
 - to report on the operation of the new service, including financial performance;
 - to effect recoveries in accordance with the agreed payment plan;
 - to make remittance to the Company of available funds as required.
- Liaison with Students;
 - to provide information in an efficient and timely manner to enable borrowers to monitor and repay their loans in accordance with the legislation and individual contracts.

The successful operation of the recovery side of the new student loans scheme will play an essential part in ensuring the funding of Guernsey school-leavers entering higher education from 2009. Failure to achieve a good level of recovery could compel the States at some future date to cut down on the number of students who gain support.

A successful record of recoveries from students who return to Guernsey and from those who settle elsewhere is essential to maintain the reputation of the States for sound financial management.

The reputation of the new loans scheme will depend to a high degree on the ability of the service provider to secure payment from borrowers living in Guernsey and in the UK. In order to ensure that as many local students as possible return to Guernsey, the contractor will be expected to be as diligent in securing recoveries from UK-based borrowers, i.e. graduates of Guernsey origin who do not return) as from Guernsey-based borrowers. All reasonable steps will also have to be taken to secure payment from borrowers who settle outside the British Isles.

Loan Administration Costs

The award of any contract would, initially, be for a period of five years. The charges will be variable, as they are based on a set-up fee when students are first entered on the loan system and following this an annual charge is made for managing individual accounts. Initially a charge of £250 will be made whenever a student enters the loan

system and the annual charge will be £160 per student. The annual cost of the service is approximately £200,000 - £250,000 per annum during this period. The service provided by the administrator is much broader than acting as a lender, as described in the previous section, and will involve among other matters, company secretarial services for the Guernsey Student Loans Company. BWCI has factored these costs into its projections, including fluctuation of student numbers.

ADMINISTRATOR: SPECIFIC REQUIREMENTS

The service provider will develop and operate procedures for securing payment from borrowers within the terms of their contracts.

The service provider will maintain individual case files (accessible by the Guernsey Student Loans Company [GSLC] for audit purposes) including all postal and electronic correspondence, summaries of information received/given during telephone conversations with the borrower and other bodies, and information recording all enquiries and responses relating to recovery processes and account details.

The service provider will follow industry best practice in tracing borrowers and securing repayment in compliance with the terms of borrowers' contracts. (The Tenderers should state how they intend to trace borrowers).

The service provider and the GSLC will agree criteria for initiating debt recovery action through the contractor's own debt recovery section or through a specialist third party. Tenderers were asked to indicate how they will pursue arrears and recover debts and how the costs of these operations will be charged to the GSLC.

The service provider will provide to the GSLC, at intervals to be determined by the GSLC management, information on its performance (e.g. number of borrowers signed up to repay, repaying in deferment, granted reduced rate of payment, in arrears, subject of debt collection, procedures, etc.) and of the amounts recovered, etc.

The service provider will remit to the GSLC at intervals to be determined by the GSLC all capital and interest recovered for the States.

The service provider should develop a risk and contingency (business continuity) plan. Tenderers were asked to state whether they had such plans in place and their capacity to provide an effective plan for this service.

The GSLC will work with the Education Department to ensure that:

- full, clear and accurate information about the terms and conditions attached to loans will be provided in Education Department public information for students and potential students and in the application documents provided to students and that customers undergo appropriate identification checks;
- data about individual borrowers is transferred efficiently from the Department to the service provider.

For borrowers, the service provider will provide:

- clear, suitable and easily accessible forms for repayment, application for deferment or reduced rate of payment;

- access by e-mail, telephone and post. Telephone access at least from 9.00 am to 5.00 pm. The service provider will maintain records of volume of calls and time taken to answer. Tenderers should state the arrangements for communication with borrowers;
- access to a face to face interview at an office in Guernsey in cases where information, including documents, need to be handed in or exchanged;
- clear information about agreed individual repayment plans;
- facilities to pay by cheque, standing order or direct debit;
- on-line enquiry access to accounts;
- regular despatch of statements by post or e-mail (borrower to have the option to receive by post);
- convenient arrangements for submission of documents (e.g. pay advice, letters of appointment) to support application for deferment or reduced rate of payment;
- appropriate written notification/warning about impending debt recovery action.

APPENDIX IV**TUITION FEES FOR STUDENTS FROM THE CHANNEL ISLANDS****AND THE ISLE OF MAN**

It is first necessary to consider the situation in the UK in order to place the arrangements for students from the Islands in context.

Undergraduate students who are UK residents are charged subsidised tuition fees. Until 2006 UK students were charged a single-rate tuition fee irrespective of the subject and institution. This fee was £1,175 in 2005/06. The UK Government pays subsidies to the institutions via Funding Councils. In 2005/06 the HE Funding Council for England (HEFCE) disbursed £6,332 million in recurrent grants to institutions in England to support teaching and research. (Scotland and Wales have their own Funding Councils).

In 1991 the education authorities in Guernsey, Jersey and the Isle of Man agreed with the UK Government that institutions should be able to charge full-cost tuition fees for Islands students and that the fees should not exceed the cost of providing for UK students on similar courses. A formula was devised under which the fees for Islands undergraduates are based on the regulated UK fee plus a per capita addition to reflect the HEFCE subsidy. Since 2001 the Islands education authorities have negotiated fees with the two associations that represent the majority of UK universities and colleges of higher education.

The purpose of the fee agreement is to ensure that the fees charged to Island students do not exceed the cost of the public funding (including the regulated UK fee) provided for the education of UK undergraduates.

The UK Government has, with Parliamentary approval, recently changed the fee arrangements for UK students. In order to introduce an element of competition into the recruitment of undergraduates and to enable institutions to increase their per capita income, from September 2006 institutions were permitted to charge variable fees up to an upper limit of £3,000 per year. This meant institutions could charge a “top-up” fee of £1,825 in addition to the standard fee of £1,175. In return for being able to charge more institutions are required to offer bursaries for students from low income households.

The vast majority of institutions have decided to charge £3,000 for all their courses. The value of the HEFCE per capita subsidy to institutions has been maintained; so the “top-up” fee is new income for the institutions.

UK students who cannot or who prefer not to pay the £3,000 fee “up front” can borrow the money from the Government-owned Student Loans Company and pay the money back after graduation. (The capital for these loans comes from public funds).

The Islands education authorities and the university associations held discussions in the academic year 2004/05 to determine the fees for Islands students in the wake of the introduction of “top-up” fees for UK students. It was agreed that:

- As most institutions would be charging the maximum fee to their UK undergraduate students, the fees for new Island students should be increased to reflect the increase in UK fees, in line with the principles agreed in 1991.
- The cost of providing bursaries for UK students, as required by the UK Government, would be deducted from the fees charged to Islands students, as these bursaries are generally not available to them and the Islands have their own student support arrangements. The deduction is £450 per student and the “top-up” for Islands students is £1,350 per student. (The pre-top-up figure has been set at £1,200).
- The methodology for calculating tuition fees would be revised to reflect better the cost of research activity at different types of institution.

The fees for those students who had their courses confirmed by the 1st August 2005 and those students entered their 2nd or subsequent years in September 2007:

Fee Band	D £	C £	B £	A £
Research Institution	5,101	6,631	8,672	20,404
Non-research institution	4,203	5,464	7,145	16,812

The fees for 2007/08 for new students who commenced their studies in or after 2006/07 are as follows:

Fee Band	D £	C £	B £	A £
Research Institution	6,313	7,952	10,138	22,707
Institution with capability research funding	5,794	7,204	9,084	19,895
Non-research institution	5,664	7,017	8,820	19,192

N.B. - For courses in professions allied to medicine (e.g. physiotherapy) institutions should charge the appropriate NHS benchmark fee.

Glossary

Courses are allocated to the appropriate Fee Band by reference to HEFCE funding classification.

Band D comprises classroom-based courses (e.g. humanities and social sciences).

Band C comprises courses which require special facilities, such as studios or workshops (e.g. art and design, performance arts, psychology, mathematics, psychology, IT software design).

Band B comprises courses in science and technology, including the pre-clinical years of degree courses in medicine, dentistry and veterinary medicine.

Band A comprises the clinical years of degree courses in medicine, dentistry and veterinary science.

Research Institution – an institution in which at least one department has achieved a grade 4 in the Research Assessment Exercise. (Most universities fall into this category).

Institution with capability research funding – an institution which has not achieved a grade 4 in the RAE but which receives funding from HEFCE to develop its research capability. (The remaining universities and some colleges of HE fall into this category).

Non-research Institution – an institution which does not qualify for research funding. (Some colleges of HE and FE colleges delivering HE courses fall into this category).

- (NB The BWCI Reports listed in Appendix II of the Education Department Report are published separately.)
- (NB By a majority, the Policy Council opposes proposition 1 and supports proposition 3. The Policy Council supports proposition 2.)
- (NB By a majority, the Treasury and Resources Department opposes proposition 1 and supports propositions 2 and 3.)

The States are asked to decide:-

XI.- Whether, after consideration of the Report dated 30th August, 2007, of the Education Department, they are of the opinion:-

1. To approve the additional funds for the Education Department's total Revenue budget, to permit the ring-fenced Higher Education Budget to be increased annually in line with demand.
2. (1) To approve the introduction of the necessary enabling legislation to permit the implementation of student loans at some point in the future by amending the Education (Guernsey) Law, 1970.
- (2) To direct the preparation of such legislation as may be necessary to give effect to their above decision.

In the event of the States rejecting proposition 1 above, whether they are of the opinion-

- 3 (1) To approve the principle of a new scheme of student contributions to tuition fees.
- (2) To approve the establishment of a student loans scheme, as set out in that Report, with the expectation that the maximum loan value will not increase in real terms for a minimum of five years.
- (3) To note the Education Department's view that up to an additional £0.5 million per annum may be required in the future.
- (4) To direct the Treasury and Resources Department to take account of the costs of the new scheme for funding Guernsey and Alderney students attending courses of further and higher education outside the Bailiwick when recommending to the States, Cash Limits for the Education Department – Higher and Advanced Education for 2009 and subsequent years, subject to a maximum Cash Limit of £7 million at 2006 values, maintained in real terms.

- (5) To approve the formation of a Guernsey Student Loans Company (GSLC) as a special purpose company to administer student loans as explained in that Report.
- (6) That the Directors of the Company shall be recommended by the Board of the Education Department, shall include representatives of the Treasury and Resources Department, and that the Directors of the GSLC are approved by the Treasury and Resources Department.
- (7) That the Education Department introduce regulations by Statutory Instrument for a student loans scheme in accordance with that Report.
- (8) That student loan interest shall be subject to tax relief in Guernsey and this shall continue beyond the 2008 tax changes.
- (9) That the Education Department be directed to report back to the States on the operation of the student loans scheme not later than five years after implementation in 2009 of the loans system.

COMMERCE AND EMPLOYMENT DEPARTMENT**REVISION OF COMPANIES LAW – SUPPLEMENTARY REPORT**

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

6th September 2007

Dear Sir

1. Executive Summary

This report supplements the Report of 26 January 2007 titled “Revision of Companies Law”.¹

During the preparation of Guernsey's new Companies Law, respondents raised a number of issues that required further development of the legislation, in addition to those identified and proposed in the initial Report. The purpose of this supplementary Report is to inform the States of the substantive issues raised during the extensive consultation process, and how they have been addressed; and so far as may be necessary, to seek States' approval to them.

There are three principal areas where further development and refinement of the draft Law has occurred. Firstly, the Law will include an obligation on directors and/or (in certain circumstances) corporate service providers, to take reasonable steps to identify the beneficial owner(s) of Guernsey companies; this differs somewhat from the beneficial ownership regime proposed in the original Report. Secondly, the Law includes a means by which companies, in certain defined circumstances, may be exempted from compliance with the audit regime. Thirdly, it is now no longer proposed that all Guernsey companies should have a company secretary; this is to be optional. Throughout, the Law provides for high standards of corporate governance, to match developing international standards.

2. Further Consultation

In the course of preparing the draft Law, there has been wide consultation, including with Guernsey's business and finance sector, legal and accountancy professions, and law

¹ Billet D’Etat XI 2007, Wednesday 28th March, p.700

enforcement bodies. Over 50 written responses were received during the 2 months for consultation, and there has been much ongoing discussion with interested parties during the drafting process. Indeed, comments received outside the formal consultation period have also been considered.

3. Major Proposed Changes

3.1 Beneficial Ownership

The 'pre-vetting' regime that has existed in Guernsey since the 1920s will be removed. It is now considered to be no longer appropriate for the Law Officers (by their 'visa') and the Guernsey Financial Services Commission ('GFSC') to be involved in pre-vetting companies, as to their beneficial ownership and/or objects. As regards the former, this check only operates on incorporation, and subsequent changes of beneficial ownership cannot be effectively monitored. One difficulty arises from the lack of any transparent objective criteria against which pre-vetting is considered, coupled with the lack of any mechanism for appeal or review.

The January 2007 States Report sets out the original proposal, giving power to directors of a company to require its members to disclose beneficial ownership information, which could then be passed on to relevant law enforcement and regulatory authorities in the event of an investigation. However, during the consultation process, the problem of enforcing any requirement on directors resident outside Guernsey to take reasonable steps to obtain beneficial ownership information was raised. It is now proposed that the Law will include a requirement that all Guernsey companies must have an agent resident on the Island, who must be either a corporate service provider regulated by the GFSC, or a locally resident director. The functions of the agent will include those relating to beneficial ownership. The purpose of the requirement is to ensure the presence on Guernsey of a person responsible for certain statutory functions. If a company fails to have a resident agent, then it will be liable to be prosecuted, and the Registrar will also have the discretion to strike the company off the Register.

The resident agent – ordinarily a local director, but if there is no local director, then a local corporate service provider – will be under an ongoing duty take reasonable steps to ascertain the beneficial ownership of the company and to ensure that up to date information on the beneficial ownership of Guernsey companies is locally available. In appropriate circumstances, Guernsey's law enforcement and regulatory authorities will be able to contact the resident agent and obtain this information. Where a resident agent is contacted by a regulatory or law enforcement authority seeking this information, it will be an offence for the resident agent to “tip-off” or otherwise do anything that might prejudice an investigation, if the authority so requires. The beneficial ownership regime will be no more onerous in practice than those imposed on corporate service providers of overseas companies administered in Guernsey, which must also comply with Guernsey's anti-money laundering regime.

The imposition of the duty to take reasonable steps to identify beneficial ownership is entirely consistent with good corporate governance, as a prudent and diligent director

would always take steps to identify the ultimate owner of the company of which he is a director. The director of a company, other than a company in widespread ownership (e.g. a mutual fund or publicly quoted company) who is indifferent to the ownership of the company of which he has stewardship is not by modern notions, fit to hold office.

A member of a company on whom notice is served requiring beneficial ownership information will be under an obligation to furnish that information, and any failure without reasonable excuse to provide that information will render the rights attaching to that member's shares liable to suspension by the company, by decision of the directors.

The beneficial ownership regime will not apply to companies whose shares are listed on a recognised stock exchange, nor will it apply to collective investment schemes. The Law will include a regulation making power to enable the Department to prescribe those stock exchanges that are recognised for those purposes, and those other companies excluded from the scope of the duty outlined above.

All those who have been consulted on these proposals have accepted that they are an appropriate means for maintaining both client confidentiality and the ability of the law enforcement and regulatory authorities to properly carry out their functions. It will also ensure that Guernsey companies remain internationally acceptable, but not unreasonably burdened by compliance and administration costs. The beneficial ownership regime will assist in ensuring that Guernsey maintains its reputation as a leading international finance centre.

3.2 Exemption from Audit

Following consultation there was also widespread agreement, particularly amongst the accounting profession, that there is a legitimate need for an audit exemption for particular companies. For some companies, the cost of preparing full audited accounts far outweighs any benefit; for example, small trading companies or family trading companies that have few shareholders – perhaps only one – will not ordinarily have any need for audited accounts. Given the widespread support for an audit exemption, the draft Law now makes appropriate provisions.

Subject to the qualifications below, all Guernsey companies may resolve to be exempt from the need to produce audited accounts. In order to take the advantage of this audit exemption, 90% of the shareholders must vote in favour. That election must be made each year. If the company is exempt from audit, then the company must notify the Registrar of Companies of that fact in its annual validation.

Not all companies will be able to take advantage of this exemption. Firstly, the GFSC will continue to be able to require regulated companies to produce audited accounts. Secondly, the Law will contain a power that will allow the Department to issue regulations requiring certain types of companies to produce audited accounts. In the UK the Companies Act 2006 specifically exempts all companies that have a turnover of less than £5.6 million from the need to produce audited accounts. Rather than simply adopt that figure, as has occurred in the Isle of Man, by allowing the Department to

make Regulations on this issue the Law will be more flexible and may be adjusted over time to reflect changing circumstances.

3.3 Company Secretary

It was initially proposed that all Guernsey companies should have a company secretary. However, following consultation, the view of business and the professions is that the role of a company secretary should be optional, not compulsory. This is now an accepted practice in many large jurisdictions internationally including the UK and New Zealand. The Department now proposes making the office of company secretary optional.

3.4 Other Changes

The Law contains provisions ensuring appropriate standards of corporate governance from Guernsey company directors. Directors must act diligently, in good faith and in the best interests of the company. With respect to directors' civil liability, a company will be unable to indemnify its directors who have acted negligently or breached their duty to the company. However, the company may purchase professional indemnity insurance for the directors. The Law will permit the Royal Court to excuse a director from civil liability to the company where it is satisfied that the director has acted honestly and reasonably, and should fairly be excused. This matches equivalent relieving provisions available to trustees.

It had also been proposed that the Law would include a set of standard articles of incorporation that would apply unless the company specifically chose to adopt different articles. This will now be done by Regulations issued by the Department. This will enable flexibility, as standard articles can be changed from time to time to reflect current best practice in the industry.

The Law will permit the States, by Ordinance, to confer functions on the UK Panel on Takeovers and Mergers to enable it to supervise takeover and merger activity involving Guernsey publicly listed companies. Historically the Panel has supervised Guernsey takeovers pursuant to an informal agreement. Recently the Panel has been placed on a statutory footing in the UK and has asked that it be granted similar statutory powers in order to enable it to continue to carry out its functions in Guernsey. In due course it may be desirable to constitute a local panel, but at present the number of takeovers and merges or Guernsey companies would not justify the considerable resources which this would necessitate.

For the avoidance of doubt, the supervision of takeovers and mergers, whether it be by the UK Panel or a locally constituted Panel, relates to primarily ensuring the fair and equal treatment of all shareholders during a takeover or merger and not to competition issues on whether or not such a transaction should be permitted. The possible regulation of takeovers and mergers on competition grounds is currently under consideration by the Department and care will be taken to ensure that there is no

conflict or duplication or duplication between any such regulation and supervision exercised under the revised Companies Law.

4. Conclusions

Following the ongoing consultation with Guernsey's business and finance sectors, law enforcement, and regulatory authorities together with other interested persons, the Department believes that these additional changes will result in a Law that reflects modern standards of corporate governance; provides suitable safeguards for Guernsey's international reputation; but which does not burden local companies with unnecessary regulation and compliance costs. It also strikes a balance between the power of law enforcement and regulators to properly perform their functions whilst ensuring that the needs of business and commerce are met.

5. Recommendations

The Department recommends that the States approve the further proposals for the revision of Companies Law as set out in section 3 of this Report. The Projet de Loi is expected to be before the House before the end of the year.

Yours faithfully

Stuart Falla
Minister

(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

XII.- Whether, after consideration of the Report dated 6th September, 2007, of the Commerce and Employment Department, they are of the opinion:-

1. To approve the further proposals for the revision of Companies Law as set out in section 3 of that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

COMMERCE AND EMPLOYMENT DEPARTMENT**COMPANY REGISTRY**

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

12th September 2007

Dear Sir

1. Executive Summary

- 1.1 This Report proposes a new system for company registration that complements the Companies (Guernsey) Law. The Companies (Guernsey) Law will introduce substantial legislative changes in the incorporation and administration of companies. The proposed Company Registry is the means through which the new registry service can be delivered. The new Registry will provide the Island with a modern infrastructure for administering company registrations through an IT enabled service.
- 1.2 The close relationship of the new Company Registry with the Companies (Guernsey) Law, was notified to States members in the Report on the Revision of Companies Law, Billet D'Etat XI March 2007. The Department informed the States that it would be submitting a further Report dealing with the financial and administrative aspects of the proposed Company Registry.
- 1.3 The proposal has taken account of extensive consultations within the Island alongside considerations of development in other jurisdictions. It is supportive of the States of Guernsey's Strategic Economic Plan to create and maintain conditions conducive to achieving economic growth. The aim of the proposal is to create a service infrastructure for companies which want and can do business in Guernsey, and will be competitive with other jurisdictions.
- 1.4 The process is administrative rather than judicial and includes the creation of a new office of the Registrar of Companies. The incorporation process for companies will be efficient and rapid, with company incorporations being available within one working day.
- 1.5 The Registry will also be a means of generating a significant income for the States through additional company services. The new income stream will

become available at a time when the States will lose a substantial part of a revenue stream previously collected from exempt company fees.

- 1.6 The Company Registry is forecast to generate sufficient income to replace the former Greffe fees for companies, Court fees for companies, most exempt fees, and will finance its own operating and capital expenses. The Registry will also provide a new source of information on the economy.
- 1.7 As with all new businesses the new Registry will require an investment in service provision. The most significant is in information technology systems. Although this represents a capital expenditure at a time of financial restraint, the proposed Registry service will benefit the States finances and the economy. It will be self-financing, provide an income stream to the States and will modernise the company registry services to commerce and industry.

2. Background

- 2.1 Guernsey and its economy are experiencing many changes, challenges and opportunities. It is essential that we maintain our high standards and continue to improve our competitive position in legal and financial services, which generate the most significant contribution to the Island's Gross Domestic Product.
- 2.2 Many of the Island's wealth creating products, including those in fiduciary services, insurance, fund management and asset management, are incorporated in a company. The company provides the legal and administrative framework in which to manage and grow wealth. A company also provides the means of providing a corporate identity, managing risk between financial services and providing returns to shareholders. Much of the Island's wealth services are administered through such corporate vehicles.
- 2.3 The States Strategic Economic Plan recognised that legislation enabling financial services can act as a facilitator for the growth and development of this essential sector in the economy. The proposed Companies (Guernsey) Law and the proposed streamlined company formation process based on an IT Registry, are an example of the implementation of the plan.
- 2.4 The change in the Company formation and administration processes required to meet the demands of a 21st century economy are significant and substantial. Since the first company was incorporated in Guernsey in 1883 to the 17,590 companies now registered (as at the end of December 2006) the fundamental legal processes in company incorporation have remained largely unchanged.
- 2.5 These processes have served the Island well and have provided a foundation upon which the new Company Registry can be built. The final Greffe registration is generally completed within one to two days. However the whole formation process involving the Commission, an advocate application to the Court and the Greffe registration can take one – two weeks in total. This is no

longer competitive with the speed of transactions required in the financial and legal services sector in the 21st century.

- 2.6 In Jersey on-line company incorporations are available within 2 hours. Other jurisdictions including the Isle of Man, Gibraltar, some of the Caribbean jurisdictions and many of the emerging Eastern European countries are now also moving their company Registries to an on-line service.
- 2.7 Investment has been made in an IT application for the day to day administration of the Greffe Registry. This has greatly assisted the management of the Greffe. The data that is already held electronically on companies will be able to be migrated onto a new system for the operation of a full electronic registry.
- 2.8 There is now the opportunity under the new Company Law and using the advances in information technology to make the Island competitive as a jurisdiction for company incorporations.

3. Research and consultation.

- 3.1 Research on a new Company Registry has involved looking at other jurisdictions including Jersey, Isle of Man, Ireland, Gibraltar and the United Kingdom. This has highlighted some of the pitfalls in the change process as well as the benefits. Many of the IT systems in these jurisdictions have evolved over a period of time. Lessons have been learnt from this and stable IT platforms for Company Registries have been developed. Guernsey is well placed to take advantage of this experience and of the IT platforms which can be adapted to the processes required in a new IT enabled company registry.
- 3.2 There has been extensive consultation on the proposed changes with commerce and industry including the Guernsey Bar, the Finance Sector Group, the Guernsey International Business Association, the Institute of Directors, the Chamber of Commerce and a wide section of the Island's financial and legal services.
- 3.3 The overwhelming response from the consultation process has been to support the proposals for change in company registration, a concept which arose from the industry's own proposal in its "Blue Sky" meetings arranged with the Department.
- 3.4 Within the States there has been consultation and involvement with HM Procurer's Office, HM Greffier and the company registry team. Treasury and Resources have approved the financial provisions and forecast States revenue streams. The Guernsey Financial Services Commission (GFSC) have had an appointed member on the Steering Group for the project and have been fully involved.

4. Revision of the Companies Law and the Company Registry.

- 4.1 The policy to provide for the legal frame work within which the proposed Registry will operate, was approved by the States in March 2007 when the Department submitted the revision of the Companies (Guernsey) Law, Billet d'Etat XI. A further report on the Companies (Guernsey) Law is laid before the States in this Billet.
- 4.2 The Company Registry enables the proposals in the revision of the Companies (Guernsey) Law to be fulfilled as an administrative process and registry service. This Report also describes the resource and budgetary implications of executing the Companies Law through the new Company Registry service.
- 4.3 The enabling date for the legislation and the opening date for the new Company Registry will be synchronised, as each requires the other to come into effect at the same time.

5. Proposals for the New Company Registry

- 5.1 The incorporation of companies will become an Administrative Process.
- 5.2 The Companies (Guernsey) Law will remove the Royal Court from the process of incorporating a company in Guernsey. Incorporation will no longer be a judicial process, but an administrative one conducted by and through a new Registrar of Companies.
- 5.3 The Registrar of Companies will be appointed as a Statutory Official. HM Greffier will no longer have this role, once the Royal Court is removed from the process.
- 5.4 The company formation process will be as streamlined and user-friendly as possible. There will be no more involvement of the Guernsey Financial Services Commission in the incorporation process. The regulatory provisions will be provided through the company incorporation agents as proposed in section 6.
- 5.5 The registry system will incorporate the latest developments in information technology to enable electronic company formation, processing and searching. This will bring access to registry services into client offices, remove the need to visit the Registry and search paper ledgers for all but some historic company records.
- 5.6 As the information will be in an electronic form, the Registry will be able to operate a full disaster recovery from a site which is locationally distant from the Registry itself.

6. Corporate Service Providers

- 6.1 With the change in the incorporation process, the current “monopoly” that advocates have on incorporating companies will also disappear. Under the new arrangements, regulated corporate service providers will be the means through which companies can be incorporated by application to the Registrar.
- 6.2 The company formation agents are to be designated “corporate service providers” (CSPs) and will be required to hold a fiduciary licence regulated by the Guernsey Financial Services Commission.
- 6.3 Fiduciaries are therefore well placed to become regulated company formation agents and the Island already has a highly professional sector able to undertake these services. A fiduciary licence from the GFSC is available to other businesses wishing to undertake company formation work. This is expected to include advocate practices, accountancy firms and other professional service providers.
- 6.4 The proposals will therefore promote competition and competitive pricing in the provision of incorporation services, while maintaining the Island’s standards and reputation in the formation process.
- 6.5 Through providing that the incorporation service be through CSPs and a requirement that there be a Guernsey agent for regulatory purposes – see section 7, both incorporation services and some ongoing administration work for overseas clients will be provided from this jurisdiction. An additional benefit of this process is that any profits from such work will be generated by Guernsey businesses rather than move offshore to other jurisdictions.
- 6.6 There is no requirement for companies to use a CSP post incorporation apart from the maintenance of a beneficial owner register for companies which do not have a Guernsey resident Director, reference section 7.4.
- 6.7 All companies, including Guernsey trading companies and Guernsey investment companies, will be able to complete their annual validation directly with the Registry. The process will be similar to the annual return filed with the Greffe, except that the process will be electronic rather than paper based and will be a validation rather than a filed return.

7. Operation of the Regulatory Requirements

- 7.1 The current regulatory regime for company formation requires a check by the GFSC in the formation process prior to submitting an application to the court to form a company. This process termed as “pre-vetting” provides a safeguard against the formation of companies for illicit purposes. However “pre-vetting” can only identify an individual case of malpractice and creates a time delay in company formation that many of our competitor jurisdictions do not experience.

- 7.2 Under the new company formation process the regulatory requirements will focus on the formation agents – the corporate service providers. The corporate service providers will be responsible for all company formations and will be licensed by the GFSC as set out in section 6.
- 7.3 Guernsey corporate service providers must have first been found suitable to hold a fiduciary licence by the Commission. This clearly identifies the responsibilities for due diligence, know your customer and anti-money laundering requirements with the formation agents. The professional standing of the CSPs should assist in the smooth operation of the Registry. The key role of the regulation of company formation agents, as in the proposed designation of corporate service providers, is recognised by the OECD in preventing the misuse of corporate vehicles for illicit purposes.*
- 7.4 For the purpose of maintaining access to up to date information on the beneficial ownership of Guernsey companies, all Guernsey companies will be required to have a resident agent present on the island. That resident agent must be a company director who resides on the island or a corporate service provider regulated by the GFSC. The resident agent will have a duty to take reasonable steps to identify the beneficial owners of the company. The resident agent will be given powers to carry out this duty.
- 7.5 Penalties could be imposed for breaching the duty on beneficial ownership. Local law enforcement bodies, such as the GFSC, the Police, Customs or HM Procurer's office will have the authority to obtain information on the beneficial owner of any particular company from the resident agent. If contacted by law enforcement, it will be an offence for the resident agent to do anything that may tip off a suspect or otherwise prejudice an investigation.
- 7.6 With no more "pre-vetting" the proposed company formation process will therefore be faster and more efficient, while still protecting the Island's reputation interests. Beneficial ownership information will continue to be available to the authorities in any investigation or action against money laundering or other illegal activity.
- 7.7 This approach to company formation, with the regulation based on the service provider rather than the service process and the provision in law on beneficial ownership has, after much consultation, been agreed by representatives of the industry, the GFSC, the Law Officers, the Police service, Customs and the Financial Intelligence Service.

8. Management of the Service

- 8.1 The Company Registry will operate within the statutory responsibilities of the Commerce and Employment Department as set out in the Companies (Guernsey) Law. The Registrar will report to the Board of the Department.

* Behind the corporate veil using corporate entities for illicit purposes OECD 2001

8.2 The Board will require the submission of annual and strategic plans, quarterly reports on Registry service performance and the submission of a business case for any significant investments.

8.3 Income generated for the Registry after deducting costs will be paid directly to General Revenue.

9. Where will the Registry be based?

9.1 The Registry will operate from Level 4 in the Market, paying a full rent for the use of the facility. This building is in the centre of Town and its location is well placed to meet the needs of the commercial sector.

9.2 It is proposed that the office layout be open plan with terminals for electronic submissions. There will also be a public notice-board to support the electronic publication of Registry notices on a website.

9.3 Existing company paper files will be retained for historic searches. There will be special assistance for those who are not familiar with keyboards and computer systems in the submission of registry filings.

10. Scope of the Company Registry IT System

10.1 The overall aim of the Guernsey Company Registry IT system is to facilitate the benefits of providing an efficient and effective service suited to the needs of a 21st century economy. It will replace the existing paper-based Company Registry system in its entirety, as there are no plans to continue administering the current process.

10.2 It is intended that the new office system be effectively paperless, such that standard documents are received in an electronic form, with the minimum of data entry by Registry staff.

10.3 Where it is not possible to receive documents electronically with the data required, then this will be achieved in the most time and cost efficient manner possible. Where documents are received that are needed to be retained, it is intended that these be scanned and retained.

10.4 This system will serve a multitude of purposes including being an information centre for persons/companies wanting guidance on setting up a company or to view related legislation, policy or news.

10.5 Standard forms and processes will be available to be completed on line, as well as the ability to undertake searches based on levels of permissions. It is proposed there will be the ability for potential company names to be reserved for a set period of time.

- 10.6 Primarily the system will provide a secure means for the corporate service providers to complete company formations on behalf of their clients. The system will use electronic forms that are pre-formatted with self checking fields. This will include validation and authorisation checks at appropriate stages.
- 10.7 The system will also manage the production and submission of annual validations. The validations will be compiled by the Registry, for sending out to companies and corporate service providers to validate the information which is held on the Registry.
- 10.8 The system will be flexible but robust in its approach to security. All data will be validated prior to entry on the Registry. It is proposed that validated data will be downloaded into the Registry at appropriate intervals so ensuring that Registry information is updated at least every 24 hours.
- 10.9 The Registry is a public Registry to be accessible and searchable from terminals in the Registry Office. In addition registered users will be able to access data from any internet location. Only corporate service providers will be enabled to form companies.
- 10.10 The Royal Court will continue to have full access to company files and associated information for judicial purposes. The judges, HM Sheriff/HM Sergeant, Greffe staff will have direct on line access to the Company Registry.
- 10.11 The regulatory and enforcement authorities, the Guernsey Financial Services Commission, the Police, the Customs and the Financial Intelligence Service will also have full data access to the Registry for regulatory and enforcement purposes.
- 10.12 This access for electronic records will be on-line, available twenty four hours a day, seven days a week. The paper ledger files will continue to be available at the proposed Registry Office. There will be no charges for Registry access by the judiciary, or the regulatory/enforcement authorities.

11. IT Tender selection process

- 11.1 Information technology systems for Company Registries are a specialist and complex field. The tender process needed to identify those organisations with the appropriate skills set and available IT platform on which to build the Guernsey Registry.
- 11.2 The Company Registry was agreed as a priority project within the States ICT strategy and the objectives for the project were agreed for the tender process.
- 11.3 The tender process commenced with a review of existing IT company registry systems in other jurisdictions as outlined in section three. An open invitation for

interested parties to submit an expressions of interest in developing an IT system for the proposed Company Registry was made in January 2007.

- 11.4 A pre-qualification questionnaire was prepared to send to all interested parties. Advertisements were placed in the Guernsey Press, Jersey Post, Computer Weekly and Tenders Direct. Organisations which the review had identified as being active in this field were also sent a direct invitation.
- 11.5 Thirty nine businesses responded initially, of which thirteen subsequently returned the pre-tender questionnaire.
- 11.6 A shortlist of suppliers with a proven capability was drawn up. Prior experience in Company Registry systems and the ability to provide an electronic registry suitable for an island jurisdiction were central criteria in the short-listing process. From the thirteen submissions, six organisations were selected for the invitation to tender stage. The unsuccessful organisations were informed and offered a consultation on the reasons for the decision.
- 11.7 The invitation to tender documents were sent on 6th July with responses on or before the 13th August. The documentation included output based specifications for the IT system, Company Registry process flow charts, a draft of the proposed Companies (Guernsey) law, a draft of the proposed contract prepared by the States Contracts Lawyer, a requirement for a 5 year maintenance contract, software license agreements and the technical architecture standards for the IT systems operating in the States of Guernsey.
- 11.8 All six tendering organisations returned substantive tender submissions. The prices for the tenders ranged from the lowest at £508,122 to the highest at £1,305,805, inclusive of the 5 year maintenance contract. A detailed technical evaluation of the tenders was carried out. The highest tender was eliminated on price – the highest cost for no additional benefits. There were concerns about the capacity for two of the others to deliver a complete system within the project time-frame.
- 11.9 Three were invited to provide a presentation to the Project Board on the 4th September 2007. The Project Board was comprised of the Deputy Minister of Commerce and Employment, the Project Director for the Company Registry, the Chairman of the Company Registry Steering Group, the Director of ITU Treasury and Resources, the shadow Registrar (Registrar designate) and the Greffe Company Registration Officer.
- 11.10 The tender submissions and the associated presentations were individually assessed by panel members against the selection criteria. Following a panel discussion on the results a recommendation on the preferred tender was made. All presenting organisations had individual good points, but following analysis of both the assessment scores and an overall panel evaluation, a unanimous decision was reached.

11.11 The preferred tender recommendation was endorsed by Commerce and Employment. The company selected is the market leader in the highly specialised sector of IT platforms for Company Registries. The price for the preferred tender was the lowest of the tenders received at £ 508,122.

11.12 The main reasons for selecting the preferred tender were:

- Existing IT platform on which to build a Company Registry.
- Proven track record and capacity to deliver a system within the project timescale that meets or exceeds expectations.
- Value for money of the whole life costs including the intellectual property rights to the software, support costs and training.
- An IT system design that is easy to use and provides process efficiency.
- Provision of a robust system with full disaster recovery.
- A hardware and software platform which is compatible with the States IT architecture.
- Contractor experience in managing projects of comparable content, complexity within time and budget constraints.
- Understanding of IT project risks and risk management processes.
- Inclusion of a comprehensive training programme for the Registry and its user – groups.
- Security of the 5 year maintenance contract.
- Ability to form a productive relationship with the States of Guernsey as a client.
- Island support provision and opportunities to be provided for the local IT industry to benefit from supply contracts relating to the procurement of the main system.
- Ability to meet the overall benefits case for the project in improving the Registry service for the States as service provider, the clients as service users and in providing a platform which will enhance the Island's reputation in the provision of Company services: see also section 17.

11.13 In addition to the tender sum of £508,122, additional project costs will be incurred in the provision of the system for use in the business community. These costs include user-group work-shops, seminars for Corporate service

Providers and a Registry help desk. The tender sum together with the associated costs and a contingency allowance means that a loan of £600,000 is required to fully finance the provision of the IT system.

- 11.14 Internal audit will be auditing the tender and procurement process and will become part of the project team in the delivery and installation of the system. Including internal audit in the project team will assist the monitoring and risk management processes and could provide learning points that may be applied to other States projects.

12. IT Projects and Risk Management

- 12.1 IT projects present particular challenges in project management and achieving successful delivery on time and in budget. Whilst some inevitable teething problems can be expected with any new system which is a radical departure from an existing process, the project has been designed and managed to mitigate risks and to maximise the successful outcome.

- 12.2 This has included:

- A rigorous tendering process including a pre-tender selection for selecting the tendering organisations.
- All selected tendering organisations had built company registry systems in other jurisdictions or designed software for similar platforms. Guernsey will therefore not be breaking new ground on its IT registration processes.
- The contractual and procurement process ensures that the IT design risks are carried and managed by the contractor – where the risks are best managed.
- The use of best practice in project management including provisions to use risk assessment tools and risk logs in reports to the Project Board.
- Provision for training for staff and private sector users prior to switching on the new Registry.
- The security of a five year maintenance contract post implementation with the supplier.
- The selected opening time for the new Company Registry which is midway between the last annual return and the first annual validation i.e. it is opening at the least busy time of the year.
- Best practice procurement and States approved contracts have been used throughout the process.

- Internal audit will be involved in auditing the procurement throughout the design, installation and implementation of the system.

13. Proposed Staffing Structure

- 13.1 Most administrative registries operate on a staffing level of between one person to every 1,000 to 1,500 company registrations. This would indicate a staffing level of between 12 to 18 persons. However, as the Registry is to be fully electronically enabled, it will have a lower staff requirement to process registrations and maintain the Registry.
- 13.2 Commerce and Employment Department has appointed a Company Registrar in a shadow capacity and he will assume the position of Registrar of Companies upon the commencement of the service.
- 13.3 The staffing structure is under active consideration by the Department. The staffing of the Registry will involve the transfer of three existing members of staff from the Greffe and the re-allocation of existing resources available to Commerce and Employment. Any additions to the staff complement are expected to be minimal. If additional staff resources are required, these will be negotiated with Treasury and Resources and wherever possible be met from within Commerce and Employment's existing staff complement.
- 13.4 In the transition phase, additional temporary staff will be taken on to accommodate the change from the old to the new system and provide the opportunity for staff training where staff are relocating from the existing Greffe services to the new Company Registry.

14. Proposed Fees and Charges and Forecast Income for the Company Registry

- 14.1 Without the new Company Registry the States will lose revenue amounting to £4.3 million under the States Zero-10 fiscal policy. This revenue stream is currently collected as an annual fee for tax exemption for companies whose owners are not resident in Guernsey. It is income collected by the Greffe and paid to Income Tax. Post implementation of the Zero-10 policy in 2008, most exempt fees will no longer apply, as the general tax rate for companies will be zero percent.
- 14.2 The new Company Registry will be able to generate an income level which can replace the income that would otherwise have been collected from exempt fees. In addition it is proposed that the Company Registry will cover the sums collected by the Greffe in respect of annual company fees together with document duties, Greffe company fees and Court fees required for companies. Current income from these services is set out in Table 1.

Table 1. Fees and Charges Collected from Companies from the Greffe, Court and Income Tax for 2006.

<u>Income</u>	<u>Income Description</u>	<u>Amount</u>	<u>Paid to</u>
Company Document Duty	£100 annual fee, and all other company duties such as duty on share capital and resolution	£2.5 million	Collected by the Greffe and paid to Treasury and Resources
Exempt income	£600 fee for companies exempt from paying Income Tax	£4.3 million	Collected by the Greffe and paid to Income Tax
Greffe fees	£10 fee for company filing (introduced May 06) and filing, copying and certificate charges	£0.6 million	Collected and retained by the Greffe.
Court fees	£35 per company formed, name change, change of share capital etc	£0.1 million	Collected and retained by the Greffe/Royal Court
Total	£7.5 million		

- 14.3 Under the proposed new Registry services the annual filing fee will be replaced by an annual validation fee. The validation service will differ from the annual filing in that the Registry will use the information in its database to send companies and corporate service providers details of the information currently held on the Registry concerning the company(ies). The requirement will then be to validate the information and to inform the Registrar of any changes required. The proposed validation fees will represent over 75% of the income projected for the new Registry.
- 14.4 The annual validation fees have been the subject of an extensive consultation with the industry and have been reviewed in detail by the Finance Sector Group.
- 14.5 With just under 18,000 companies, the costs of running the Registry could be fully met by charging an annual validation fee of under £50/company. However this would not generate the income for the States that will be lost from exempt duties and Greffe/Court fees.
- 14.6 Charging a higher fee can generate additional income but it is important that the fee is not so high as to be burdensome for locally trading businesses or to make the Island uncompetitive with respect to the outward facing international businesses.
- 14.7 In the proposals for the annual validation fees, a distinction has been drawn

between the non-regulated companies largely trading on the Island and the regulated companies in the financial and legal services area which are trading internationally.

- 14.8 The local trading companies currently pay £110 annual filing fee and document duty. Many of the international companies will currently also pay a £600 exempt fee. The proposals for fees and charges to be collected in respect of companies from the 1st January 2009 for the annual validation are set out in the following Table.

Table 2. Proposed Annual Validation Fee by Class of Company for 2009.

<u>Class</u>	<u>Category</u>	<u>Proposed Annual Fee</u>
1	All non-regulated companies. (includes most locally trading companies i.e. those engaged in commerce and industry on the Island and local private investment companies (asset holding) which are not regulated by the GFSC.)	£250
2	Financial product companies. (typically, these are administered by a regulated licensee and include captive insurance companies, incorporated fiduciary structures, incorporated management funds. This class also includes managed banks, which are managed as a service from Guernsey but are directly regulated by the GFSC)	£500
3	Incorporated cell or a protected cell companies. (In addition to the £750 annual validation fee for a protected or incorporated cell company there is proposed to be a £100 fee for each incorporated cell or £10 annual fee for each protected cell).	£750
4a)	GFSC regulated management companies. (Licensed to provide banking, fiduciary, financial, insurance and fund management services :- these are the head licence companies which include Guernsey incorporated banks, licensed fiduciaries/fund management administrators/insurance companies).	£1,000
4b)	OUR regulated companies (Telecommunications companies, Guernsey Post and Guernsey Electricity).	£1,000
5	Not for profit organisations (incorporated charities will be exempt)	£100
6	Other corporate bodies and regulated business entities. (To include Registered limited partnerships)	£500

- 14.9 The above fees are provided for information, however it should be noted that the Island is in a competitive and dynamic market with respect to the incorporation and administration of companies. The fees will be set by the Registrar after consultation with and the consent of the Department upon the Registrar assuming his responsibilities.
- 14.10 In addition to the annual validation fee, there will be fees for incorporation for corporate service providers and other fees for copying, certifying and searching the Registry.
- 14.11 The forecast income for the new Company Registry is set out in table 3.

Table 3. Forecast Income for the New Company Registry

<u>Category</u>	<u>Amount</u>
Total Annual Validation Fees	£7.5 million
Incorporation fees and charges and filing agent fees	£0.8 million
Other fees i.e. copying, certifying etc	£0.5 million
Total overall projected income for the new Company Registry	£8.8 million

The above figures in Table 3 are a forecast using the best information available. The actual out-turn will depend upon the fees set by the Registrar, the level of registry activity and the number of companies on the Registry. The above forecast is based on 2006 actual figures for registrations and the proposed fees as set out in table 2 without any addition for growth from the proposed IT enabled Registry.

- 14.12 The total income for the new Registry, projected at £8.8 million, can cover the loss of income from the exempt company fees, the company and document duties, the Greffe fees, the Court fees and meet the operating costs of the Registry.

15. Company Fee and Income in the Transition Year in 2008

- 15.1 The Companies (Guernsey) Law and the new Company Registry together with its fee structure, will be enabled in law and come into existence in the third quarter of 2008. Exempt fees for most companies will cease from 1st January 2008. To cover the shortfall in income for 2008, it is proposed to increase Document Duty (the annual company return fee) for Guernsey Companies from £100 to £250.
- 15.2 The fee of £100 was last set on 1st January 1983 when it was increased from £50. The present day value of the £100 fee, taking account of inflation, is £279.

The increase in the fee, although significant, simply represents a catch up to preserve the real value of the annual return to the States.

- 15.3 The fee of £250 is the lowest proposed annual fee for companies (apart from the exception allowed for not for profit organisations (except incorporated charities which will be exempt) at £100).
- 15.4 Under the proposed annual validation fee structure many of the companies operating in the financial and legal services area would pay significantly higher fees. It is therefore proposed that there will be a special provision in the fee structure for 1st January 2009 to charge an additional fee for companies that would have been due to pay a higher fee in 2008 under the new charging structure.
- 15.5 For example in 2009 a company which is an incorporated fiduciary product (structure administered by a licensed fiduciary) will pay £500 for the 2009 annual filing fee on 1st January 2009 plus an additional £250 for the balance due on the 2008 annual filing fee. Similarly, for a licensed fiduciary company (the company which holds the regulatory licence with the GFSC) will pay £1,000 on 1st January 2009 plus an additional £750 for the balance due from 2008.
- 15.6 The provision for receiving the balance of the fee which would have been due for 2008 on 1st January 2009, secures the States income position with respect to Company Registry fees in the transition year of 2008.
- 15.7 Businesses will not be disadvantaged as the Guernsey trading companies, on the lowest fee scale, will have no additional charge; while the companies trading in the financial services sector will have a small cash flow benefit for 12 months, when compared with the fee structure that would have been due in 2008.

16. The Cost and Financing of the Registry

- 16.1 The Registry will be self-financing from the income derived from the Registry services and will pay the substantial balance of income after cost to the States of Guernsey to the Treasury and Resources Department. The cost items for the Registry are:

- i. Fit-out costs for the new Registry

This is a one-off investment in the new Registry facility. It will include desks, computers, screens and roller racking to contain the historic paper ledgers etc. A Table of the main costs is set out below.

Table 4. Fit-out costs for the new Company Registry

<u>Main Items</u>	<u>£</u>
Building fit-out	£152,500
Roller racking facility for files	£ 44,000
Furnishing and equipment	£123,000
Professional fees / Other	£ 30,500
Total	£350,000

ii. IT Investment

A significant investment is required in a new IT system. Guernsey has fallen a long way behind its competitors and so a complete system has to be developed for the new Registry. Thereafter it is envisaged that there will be an ongoing requirement to invest in and upgrade the IT facility to keep the Island competitive as a jurisdiction for company services. All such investments will be subject to a business case with the funds to be met out of Registry service income.

Following a successful tendering process the sum required for the initial investment in the IT system is £600,000.

This sum is inclusive of software development, programming, installation, purchase of the intellectual property rights to the registry platform, training, validation and will come with a 5 year support contract.

It is proposed that both the IT investment costs and the fit-out costs are to be provided as a States loan to be repaid by the Registry on the standard terms as agreed with Treasury and Resources at a floating rate. The IT loan is to repaid over 5 years, the building fit-out costs over 10 years.

The Registry will finance its capital requirements without drawing on funds from the States capital account. The capital funding of the Registry will therefore not reduce the States capital fund required for essential infrastructure.

The provision of registry services is a rapidly developing market. The Company Registry will therefore need to continue to invest to stay competitive in the market and expend the revenue earning opportunities for the States.

iii. Accounting arrangements and budget

The budget will be set up on a net income basis with income going to general revenue after all costs have been charged. The Company Registry will produce a separate set of accounts including a balance sheet with expenditure charged to the income and expenditure account.

An outline budget for operating the Company Registry is set out below. This includes the staffing costs, IT costs, rent for the building, anticipated professional services and marketing/development work.

Table 5 Forecast Budget for Company Registry

Forecast Registry income – see Table 3	£8,800,000
Forecast costs	
Staff costs	£580,000
Building and service costs	£138,000
IT and equipment	£20,000
Professional fees, other costs and contingency	£143,000
Total cost before loan financing and depreciation	£881,000
IT States loan interest payments for £600,000 over 5 years*	£23,000
Fit out and fixtures States loan repayment/financing for £350,000 over 10 years*	£12,000
Depreciation 5 years for the IT system, 10 years for building fit out.	£155,000
Total cost	£1,071,000
Forecast net surplus available for States funds after operating costs, loan financing and depreciation.	£7,729,000

**Interest costs have been calculated at an interest rate of 6%. The interest rate from T&R is variable, the current rate is 5.67%. The annual charge has been averaged based on the 6% rate over the term of the loan. Note the outline budget is for a full operational year once the new Registry is established. Figures have been rounded to the nearest £1,000.*

17. Other Registry Services

- 17.1 In addition to the company registration service the Registry will become a focus for new product development in the finance and legal services. Financial and legal products and services can have a registry component and it is expected for example, that registered foundations will be one of the new service areas to be provided by the Registry as a service to the fiduciary sector.
- 17.2 The Registry can also provide a means of classifying and monitoring business activity within the economy. It is proposed that each company which is registering will be designated by the corporate service provider into a business category.
- 17.3 Business categories are to be updated on an annual basis through the annual validation. Through the incorporation, annual validation and strike-off processes it will therefore be possible to gain a picture of the economy in terms of the formation, ongoing business and cessation of company business. This will add a valuable piece of information to the economic statistics.
- 17.4 A standardised code of classification for Guernsey companies will also provide a means of modernising and harmonising business classifications across the States of Guernsey. This will be of particular value to Income Tax, Social Security and Commerce and Employment in their respective States responsibilities.

18. The Overall Benefits Case

- 18.1 The new Company Registry represents a real opportunity for the Island to place itself amongst the leaders in offshore jurisdictions for company services. The benefits represented from the overall project include:
- Electronically accessible systems in client offices.
 - More streamlined company formation process.
 - Improved service to the financial services sector (same day company incorporation and registration).
 - Cost effective delivery of service.
 - Greater availability of access to company information to the general public.
 - Better “marketability” of the Guernsey company.
 - Closer links with the finance industry and commerce through the Registry services.

- New product development coordinating commercial demand with legislation and registration processes.
- Enhanced reputation for the Island with promotional opportunities.
- Systems that support compliance and due diligence to protect the Island's reputation.
- A continued and increased contribution to States revenues.
- A new source of economic data on companies.
- Business continuity and disaster recovery for all new Registry filings.
- Raising the Island's competitive position with respect to other jurisdictions.

The purpose of undertaking the modernisation of the Company Registry and the procurement of an IT system in particular, is to deliver these benefits to the financial and commercial sectors, to the States in securing company revenues while enhancing the Island's reputation and standing as a world-class international finance centre.

- 18.2 Alongside the significant development of services for the finance sector there are also benefits to Island commerce in general and to public access to the Registry.

A significant expenditure is required to bring the Island company services into the 21st century and to operate on a competitive basis with other jurisdictions, however the cost of the new company registry represents an investment in the Island's economic development. It is an investment that will be self funding and provide a return to the States.

19. Recommendations

The States are asked to:

1. Approve the establishment of a Company Registry as set out in this Report.
2. Agree that with effect from 1st January 2008 the Document Duty on the filing of an Annual Return of a limited liability company registered in Guernsey shall be £250.

3. Approve the fitting out of the Company Registry office at a total cost not to exceed £350,000 and to authorise the Treasury and Resources Department to loan the Commerce and Employment Department (Company Registry) such sum, repayable over 10 years with interest charged at the States Treasury rate.
4. Approve the provision of an Information Technology system as set out in this Report at a total cost not to exceed £600,000 and to authorise the Treasury and Resources Department to loan the Commerce and Employment Department (Company Registry) such sum, repayable over 5 years with interest charged at the States Treasury rate.
5. To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

Yours faithfully

Stuart Falla
Minister

(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

XIII.- Whether, after consideration of the Report dated 12th September, 2007, of the Commerce and Employment Department, they are of the opinion:-

1. To approve the establishment of a Company Registry as set out in that Report.
2. That with effect from 1st January 2008 the Document Duty on the filing of an Annual Return of a limited liability company registered in Guernsey shall be £250.
3. To approve the fitting out of the Company Registry office at a total cost not to exceed £350,000 and to authorise the Treasury and Resources Department to loan the Commerce and Employment Department (Company Registry) such sum, repayable over 10 years with interest charged at the States Treasury rate.
4. To approve the provision of an Information Technology system as set out in this Report at a total cost not to exceed £600,000 and to authorise the Treasury and Resources Department to loan the Commerce and Employment Department (Company Registry) such sum, repayable over 5 years with interest charged at the States Treasury rate.
- 5 To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

PUBLIC SECTOR REMUNERATION COMMITTEE

REVIEW OF PUBLIC SECTOR PENSION SCHEMES

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

30th August 2007

Dear Sir

Executive Summary

1. The main section of this report concerns the recommendations from the Pensions Review Panel. This Panel was established following the endorsement by the States in October 2006 of the principle that pension benefits for Guernsey public sector employees should continue to be broadly comparable to those of their UK counterparts. The recommendations, which have to be considered as a whole, have been accepted by the Public Sector Remuneration Committee (the Committee) as representative of the employer and by the various employee organisations on behalf of the members. In consequence, these recommendations are now being submitted for endorsement by the States.
2. Apart from maintaining broad comparability with UK schemes, the package will also ensure that public sector employees have access to a modern quality pension scheme. Importantly, this scheme will assist with the recruitment and retention of the employees necessary to provide our vital public services.
3. It is estimated that the package will result in a reduction of £13 million in the States current liabilities. More importantly, the package is estimated to reduce the “true” cost of providing pensions for States employees by £800,000 per annum with immediate effect rising to £2.1 million per annum (in current values) over a fifteen-year period.
4. The subsidiary section of this Report proposes a minor amendment to the Rules to provide a certain delegated authority to the Committee, thereby streamlining a current bureaucratic procedure, and the repeal of a redundant section of the Rules.

Introduction

5. In November 2005 (Billet d'Etat XX) following a report from the Treasury and Resources Department (the Department) on the actuarial valuation of the Superannuation Fund as at 31 December 2004, the States resolved that there should be a review of the arrangements for providing pensions for public sector employees.
6. As an occupational pension scheme forms an important and integral part of employees' pay and conditions packages responsibility for the review rested with the Committee – the body mandated to negotiate, on behalf of the States as employer, the pay and conditions of all public sector employees. The Committee undertook the review in consultation with elected employee representatives within the forum of the Pensions Consultative Committee (PCC) and in consultation with the “major” employing Departments.
7. The consensus of opinion which emerged from the review process was that:
 - (i) there should continue to be a common scheme for the whole of the public sector (with special benefits for those groups whose UK counterparts enjoyed special benefits); and
 - (ii) the pension benefits should continue to be broadly comparable to those of their UK counterparts – and this in the full knowledge that the benefits in the UK schemes were being reviewed.
8. The Committee (together with the Department) reported to the States in October 2006 (Billet d'Etat XVII) and the States endorsed the views detailed in 7 above. In particular, it reaffirmed the objectives for the main scheme (see Appendix A) and, in the knowledge that UK public sector schemes were to be significantly changed, it also directed that a review of the local schemes should be undertaken:

”...by a Review Panel of the PCC chaired by an independent person, acceptable to both Sides, with proven credentials in pension matters. The Review Panel would also be required to consult with the non-States bodies whose employees are members of the scheme but not represented on the PCC as their position also needs to be addressed. The Review Panel will be required to produce a detailed report and necessary Rule changes to be submitted for consideration by the PCC and subsequent endorsement by the States in early 2007.”
9. The States also accepted a recommendation from the Department that the employer contribution rates in respect of the States of Guernsey Superannuation Fund be maintained at their present level pending the results of the actuarial valuation at 31 December 2007 which would take into account any changes following the Review Panel's findings.

The Review Panel's Report

10. The Review Panel commenced work in November 2006 and submitted its detailed report in June 2007. A copy of the report is enclosed as Appendix B.
11. The Committee believes that the Panel's report whilst necessarily detailed is self-explanatory and, thus, no purpose would be served by repeating in detail aspects within this report. It should be noted, however, that as in all successful negotiations, both the employer (the States) and employees were able to achieve their main objectives.
12. The fundamental changes achieved by the employer are:
 - * an increase in the normal pension age from 60 to 65 for new standard members (and by a similar amount for non-standard members); and
 - * an increase in member contribution rates.
13. The employees have achieved:
 - * protection of the normal pension age of current members; and
 - * an improved accrual rate for new members (i.e. those with the later normal pension age).
14. Also included as part of the package are: changes to address equality issues and reflect social changes since the scheme was introduced (see section on "survivor benefits"); changes to promote and assist employees to continue in the workforce longer than at present (see sections on "minimum age to access benefits", "pensionable pay" and "phased and flexible retirement"); and greater flexibility for members in respect of their benefits (see section on "commutation"). All these changes are welcomed by both employer and members.
15. The issue of redundancy and pensions has been the subject of much discussion between the Committee, employee representatives and others in the last two years and has also been addressed by the Panel.

Consideration of the Review Panel's Report

16. The Review Panel's report consisted of a package of proposals which were recommended to the PCC. The procedure to be followed was:
 - (a) the Staff Side of the PCC had to obtain endorsement of the recommendations from its constituent organisations on behalf of their members;

- (b) the Committee had to consider and endorse the recommendations on behalf of the States.
17. In their considerations, which were reported at a formal meeting of the PCC, both Sides noted:
- (a) the recommendations were a balanced package which had to be considered as a whole (i.e. neither Side could choose only those aspects which it believed to be favourable); and
 - (b) the recommendations were in accordance with the objectives which had been reaffirmed by the States in October 2006 (see Appendix A).
18. The PCC, therefore, was pleased to endorse the Panel's recommendations and authorise the preparation of the amendment rules to both the Public Servants' Scheme and the (closed to new members) Teachers' Scheme which the States needs to approve to give effect to the recommendations accepted by the PCC.

Costs

19. The issue of costs is, of course, addressed in the Panel's report and has been considered in particular by the Committee. It is appropriate to comment on this aspect of the Report to ensure there is no confusion.
20. The following points should be emphasised:
- (a) in a defined benefit scheme the employer's contribution rate is expected to fluctuate following triennial actuarial valuations;
 - (b) the current employer's contribution rate is historically low, deriving from a decade commencing in the mid-90s when extraordinary investment performance resulted in a healthy surplus within the Superannuation Fund which enabled the States to reduce its contribution significantly below the "true" cost of accruing benefits (N.B. the member contribution rate did not reduce);
 - (c) the historically low figure was always recognised as a temporary "windfall" benefit for the employer with the expectation that the rate would return to closer to the "true" cost in due course;
 - (d) notwithstanding the Fund having moved from surplus to deficit by the time of the last valuation the States is currently still contributing at the rate appropriate when the Fund was in surplus.
21. Against the background detailed above the Committee has noted and welcomed the estimated savings which will arise from the recommendations. However, it

wishes to emphasise – for the avoidance of doubt – that these are savings in comparison to the “true” costs which would otherwise accrue. They do not represent a reduction in the current (historically low) States contribution rate. In accordance with the recommendation from the Department, accepted by the States in October 2006 (see paragraph 9 above), the actual contribution rates will be maintained at their present levels pending the results of the actuarial valuation at 31 December 2007 i.e. they will not change until 1 January 2009.

Other Issues

22. There are two further issues, quite separate from the Review Panel’s report, that have been considered by the Committee and which it wishes the States to endorse at this time.
23. Firstly, in accordance with the Rules, the holders of certain specified posts or offices are eligible for membership of the scheme even though they are not States employees or employees of the named Associated Bodies. The type of posts that fall into this category are the Crown Officers, the Magistrates, H M Greffier and H M Sheriff. However, in the event of any new posts of this nature being created, or even a change to the title of an existing post, it is necessary for the Committee to submit a report, together with amendment Rules, for endorsement by the States.
24. In accordance with this procedure the amendment Rules will make provision for holders of the new statutory posts of Legal Aid Administrator and the Children’s Convenor to be eligible for membership of the scheme.
25. For the future the Committee considers that it would be far more appropriate and less bureaucratic for it to have delegated authority to deal with such small issues without reference to the States. Accordingly provision will be made within the amendment Rules for the States to delegate such authority to the Committee.
26. It would be the Committee’s intention to exercise this authority in the event of posts or offices being created which were wholly or partly funded by the States on rates of pay determined by the Committee. The Committee would still seek endorsement by the States prior to admitting employees of Associated Bodies to the scheme (the most recent example was employees of Blanchelande Girls’ College).
27. Secondly, and by way of a “tidying up” exercise, the Committee recommends repeal of “The States of Guernsey (Public Servants) (Pensions and other Benefits) (Supplementary) Rules, 1973”. These Rules make provision for an employee of the States who is elected a Member of the States to continue as a member of the Public Servants’ Pension Scheme. They were introduced at a time when options in respect of accrued benefits were limited for those who left States employment before pension age and when States Members were not paid

– let alone had pension provisions. In much changed circumstances these Rules are not used, serve no purpose and should, therefore, be repealed.

Summary and Recommendations

28. This Report concludes a process which commenced in the autumn of 2005, was debated by the States in the autumn of 2006 when the core principles agreed by employer and employees were endorsed, and which taken as a whole represents the most fundamental review and reform of public sector pension arrangements since the early 1970s. The Committee is pleased that agreement has been reached with all the representative organisations on revised arrangements, appropriate for current circumstances, which will assist the States to recruit and retain employees to provide our public services and at a cost estimated to be lower than would be incurred under the current arrangements.
29. The Committee, therefore, recommends the States endorse the agreement. (N.B. The rules and regulations necessary to give effect to the agreement would be submitted for approval by the States in either November or December 2007.)

Yours faithfully

J P Le Tocq
Chairman

APPENDIX A

- “(i) *The scheme should provide adequately for the needs of employees and of their immediate families for their retirement and in the case of their early death or disability.*
- (ii) *Benefits and terms should in general approximate to those available in the UK and elsewhere for equivalent groups, but this should be tempered by any special considerations applicable to Guernsey. Regard should be had to salary and wage levels, to other benefits provided, and to security of employment.*
- (iii) *In determining the levels of benefits, the States should regard itself as an employer of people, and interpret the above objectives in that light.*
- (iv) *The financial arrangements for securing the benefits should aim to minimise the cost of the scheme in the long term while providing an acceptable level of security for members.”*

APPENDIX B

REPORT OF THE REVIEW PANEL

to the

PENSIONS CONSULTATIVE COMMITTEE

The Chairman
Pensions Consultative Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

1 June 2007

Dear Deputy Le Tocq

REVIEW OF PUBLIC SECTOR PENSION SCHEMES

Executive Summary

The Review Panel of the Pensions Consultative Committee was established following endorsement by the States of Deliberation of the principle that the pension arrangements for public sector employees in Guernsey should continue to be broadly comparable to those of their UK counterparts in the light of the recent changes in their schemes.

The Panel has now concluded its work in accordance with that decision and is proposing a package of recommendations which have to be considered as a whole and which are designed to:

- continue to maintain broad comparability with the arrangements within the UK public sector;
- continue to ensure quality defined benefit provisions;
- address equality issues for a diverse workforce and reflecting social changes;
- provide increased flexibility for individuals;

- address the costs arising through increased life expectancy.

The Panel's recommendations include:

- a normal pension age of 65 for new standard members whilst protecting the normal pension age of 60 for current members;
- a pension accrual rate of $\frac{1}{60}$ for new members with the option to commute part of their pension to provide a lump sum equal to 25% of the value of their pension;
- an option for current members to take a greater proportion of their benefits in the form of a lump sum;
- provisions to facilitate phased and flexible retirement;
- improved benefits in the event of death in service;
- a general increase in employee contribution rates.

The recommendations as a whole are intended to have a favourable impact on the employer's cost in respect of both accrued liabilities and future service. Based on reasonable and prudent assumptions the former has been estimated as a reduction of £13 million and the latter as a reduction of £800,000 per annum from 2008 increasing to £2.1 million per annum (in current values) over an approximate fifteen-year period.

Introduction

In accordance with the States Report dated 13 September 2006 and approved on 26 October 2006 a Review Panel of the Pensions Consultative Committee (PCC) was established to progress the work of revising the pension arrangements for Guernsey public sector employees to maintain broad comparability with the revised arrangements for their UK counterparts.

The Panel has held a series of meetings during which it has considered in detail the revised arrangements in all the UK public sector schemes and the manner in which they should be applied to Guernsey public sector employees. The Panel has also held discussions and exchanged correspondence with the major Associated Bodies – Guernsey Electricity Limited, Guernsey Post Limited and the Guernsey Financial Services Commission – and representatives of their employees.

This report details the recommendations of the Panel for consideration by the PCC and, subsequently, the States. All of the recommendations are supported by the entire Panel.

Membership of the Panel

The Panel, which was appointed by the PCC, consists of the following:

Independent Chairman	- Mr Peter Morgan, retired actuary with extensive experience at senior level
Representing the Employer's Side	- Deputy Jack Honeybill, member of the Public Sector Remuneration Committee - Mr Terry Harnden, Employer's Side Secretary - Mrs Sarah Tullier, HR Manager (Pensions)
Representing the Staff Side	- Mr Adrian Lewis, Association of States Employees' Organisations, Chair of Staff Side - Mr Ron Le Cras, Transport and General Workers' Union, Staff Side Secretary - Mr Barry Fawcett, Head of Pensions, National Union of Teachers
Minute Secretary	- Mr Colin Creed

The Panel has been assisted in its deliberations by Mrs D Simon from BWCI Consulting Limited, Actuaries for the States, who has provided all the detailed estimates of costs.

Terms of Reference

The detailed terms of reference for the Panel were as follows:

- (i) review the arrangements for current and future members of the Public Servants' Pension Scheme and members of the Teachers' Superannuation Scheme in the light of the reviews of the UK public sector employees' pension arrangements; and
- (ii) produce detailed proposals which would ensure that benefits and terms for members of the Guernsey public sector schemes would in general continue to approximate to those available for equivalent UK public sector groups; and
- (iii) present a draft detailed States Report to the Pensions Consultative Committee by a target date of 31 March 2007 with the intention that the Report, and subsequently with accompanying amendment Rules, be submitted by the Public Sector Remuneration Committee for consideration by the States no later than its meeting of July 2007.

The Panel also undertook to consult with the major Associated Bodies – employers and elected employee representatives – in accordance with the States Report.

In the course of its work the Panel was mindful of the implications of any of its

recommendations on administrative resources.

The Panel's work extended slightly beyond its challenging deadline of 31 March 2007 but this should have no significant implications given a target date of 1 January 2008 for implementation of revised arrangements.

Scheme Membership

There are at present two separate – albeit similar – public sector schemes i.e. the Public Servants' Pension Scheme and the Teachers' Superannuation Scheme. The latter is closed to new members and the majority have chosen to transfer to the Public Servants' Pension Scheme. The schemes encompass approximately 4,700 currently employed and 3,000 "retired" members. The currently employed members can be described broadly as follows:

"standard" States employees:

Teachers	650	
Nurses	730	
Prison Officers	75	
Public Service Employees	700	
Established Staff	<u>1500</u>	3655

"non-standard" States employees:

Police Officers	175	
Firefighters/Airport Firefighters	<u>100</u>	275

"Associated Bodies"

Post	260	
Electricity	220	
GFSC	90	
Colleges, Libraries etc	<u>200</u>	<u>770</u>
		<u>4,700</u>

UK Comparator Schemes

The Panel noted that the reform of the main UK public sector pension schemes was undertaken within a framework of principles which was agreed by the Public Services Forum which included representatives of government, employers and employees. A copy of the framework principles is included as Appendix I of this report.

In the course of its deliberations the Panel has reviewed the arrangements in the following UK public sector pension schemes:

(a) For “standard” employees, who comprise 95% of the membership, the Panel looked at the following:

- the UK Civil Service Pension Schemes
- the National Health Service Pension Scheme
- the Local Government Pension Scheme
- the Teachers’ Pension Schemes (in England and Wales, Scotland and Northern Ireland)

(b) For “non-standard” employees, who comprise 5% of the membership, the Panel looked at:

- the Police Officers’ Pension Scheme
- the Firefighters’ Pension Scheme
- the Judicial Pensions Scheme

The Panel noted the following general points which have influenced the changes which have been agreed in respect of these schemes:

- (i) general demographic changes, which are resulting in an increase in the retired population to be supported by a smaller working population;
- (ii) the increased costs of providing pension benefits – due, in large part, to increasing average life expectancy;
- (iii) legislative and social requirements to modernise pension arrangements to reflect lifestyles;
- (iv) changes in taxation arrangements to facilitate moves to address these issues.

The Panel has noted that the reviews of UK public sector pension schemes, in the light of the above, have each resulted in an agreed package of changes which have:

- (i) retained quality defined benefit^{*} arrangements for current and future members;
- (ii) introduced a higher pension age for new members whilst protecting the pension age for current members;
- (iii) revised benefit arrangements to reflect social changes;
- (iv) generally increased contribution rates for employees;

^{*} A defined benefit scheme is one in which the employee’s benefits are linked to length of service and pensionable pay (often “final” salary). The benefits are thus defined. The other major type of scheme is defined contribution, in which the contribution (of employer and employee) is known but the benefit depends largely on investment performance and the cost of annuities.

- (v) reduced prospective employer contribution rates and provided for further reviews in certain specified circumstances.

The Panel's Deliberations

The Panel has undertaken its work in the light of the reasons for and the changes in the UK schemes and in view of the States endorsement of the principle of continuing broad comparability with those schemes. The Panel has noted that although all UK schemes have been reviewed and there are common themes changes have not all been identical. The Panel has avoided recommendations which could be seen as entirely favourable for either employer or employees but decided on a balanced set of recommendations which maintain overall comparability with UK schemes whilst taking into account administrative resources.

The Panel, therefore, recommends the revised arrangements detailed below with such arrangements, unless otherwise specified, to apply with effect from 1 January 2008. The recommendations have been agreed by the entire Panel and have to be considered as a package.

Recommendations - Standard Employees

The recommendations in (i) to (iv) involve distinctions between current and new members.

(i) Normal Pension Age

The normal pension age is the earliest age at which an employee is normally able to leave employment and receive immediate payment of unreduced pension benefits. (Normal pension age is not necessarily the age at which employees choose to retire.)

The Panel recommends that the normal pension age for new members be 65.

The Panel recommends that the normal pension age of current members remain at 60.

(ii) Minimum Age to Access Benefits

At present members who have left employment have the option of accessing their accrued benefits from age 50 i.e. when within 10 years of their normal pension age. Such benefits are paid at a reduced rate – because they are paid over a longer period – on a basis calculated by the Actuary to be at no cost to the employer.

As a result of changes in UK tax legislation the minimum age at which members of UK occupational pension schemes will be able to access benefits (except on the grounds of ill-health) will be 55 with effect from April 2010.

The Panel recommends that the minimum age at which new members of the Scheme be able to access their benefits be set at 55 – this would be 10 years prior to their normal pension age (65) and would thus mirror the arrangements for current members.

The Panel recommends that the minimum age at which current members be able to access their benefits remain at 50 because:

- there is no overriding Guernsey tax legislation which would require any change at present;
- accessing benefits earlier than normal pension age at reduced rates provides an option to members at no cost to the employer;
- members have an expectation of this option being available and may have made lifestyle decisions on this basis which it would be unreasonable to remove without good reason.

NB: Separate arrangements will apply in respect of redundancy – see (xiii) below.

(iii) Pension Accrual Rate

The pension accrual rate is the factor by which the member's pensionable pay is multiplied to produce the annual pension.

The current accrual rate is $\frac{1}{80}$ for each year of reckonable service. Thus the small proportion of employees who retire with 40 years' reckonable service are entitled to an annual pension equal to one half of their pensionable pay.

The Panel recommends that the accrual rate for new members (i.e. those with a normal pension age of 65) be $\frac{1}{60}$.

The Panel recommends that the pension accrual rate for current members (i.e. those with a normal pension age of 60) remain at $\frac{1}{80}$.

NB: This issue needs to be considered in conjunction with (iv) below.

The Panel noted that for particular reasons the UK Civil Service is introducing for new entrants a different type of defined benefit arrangement known as a Career Average Revalued Earnings – or CARE – scheme. In this arrangement there is a higher pension accrual rate but pensionable pay is the average throughout a career rather than “final” salary. The arrangement is intended to be cost neutral for the employer but redistributes benefits between members. The Panel concluded that the membership structure in Guernsey did not warrant the introduction of such a scheme which would inevitably introduce additional administrative complexities.

(iv) **Commutation (lump sums)**

Under the present arrangements members receive, in addition to their annual pension, a lump sum which is based on $\frac{3}{80}$ of pensionable pay for each year of reckonable service. This lump sum currently represents approximately 13% of the value of their total pension benefits.

New members with an accrual rate of $\frac{1}{60}$ will not have an automatic lump sum, but the Panel recommends that they have the option to take up to 25% of the value of their pension benefits as a lump sum, by surrendering £1 of pension per annum for £12 of lump sum.

The Panel recommends that current members (i.e. both those in employment and those with deferred* benefits) also be given the option to take up to 25% of the value of their total pension benefits as a lump sum. Thus, they would receive an automatic lump sum and be able to surrender £1 of pension per annum for £12 of (additional) lump sum. An example of this option is included as Appendix II.

This flexible arrangement has long been available in private sector schemes and is now available in UK public sector schemes. The commutation rate recommended by the Panel is the same as the rate used in all of the UK comparator schemes. The recommended arrangements represent not only a lifestyle choice for members but, to the extent that it is taken up, a benefit to the employer as the commutation rate of 12:1 is less than the actuarial value of the annual pension.

The following recommendations are common to both current and new members.

(v) **Survivor Benefits**

The current arrangements are based on the concept of marriage. Thus:

- survivor benefits are payable to the legal surviving spouse;
- survivor benefits cease on the remarriage of the widow or widower.

In UK schemes major changes have been introduced in recognition of changes in society. The Panel, therefore, recommends survivor benefits should be payable:

- to spouses and civil partners (if and when permitted under Guernsey legislation) based on the member's service;
- to unmarried partners, both heterosexual and same sex, subject to a test

* Members who have left employment and preserved their accrued benefits in the scheme for payment at normal pension age.

of financial interdependency, based on the member's service after 1 January 2008 but with the option to buy in earlier service.

The Panel further recommends that the benefits should:

- (continue to) be calculated on an accrual rate of $\frac{1}{160}$ of each year of the member's service;
- be payable for life.

(vi) **Death in Service Lump Sum Benefits**

The Panel recommends that the grant payable in respect of all members who die in service be increased from 2 x pensionable pay to 3 x pensionable pay.

(vii) **Ill-health Retirement Benefits**

The present arrangements make provision for benefits in the event of ill-health retirement which result in:

- (a) benefits being brought into payment before normal pension age; and
- (b) the benefits being based on service enhanced by reference to the member's actual service.

The Panel recommends that in future the enhancement (b) apply only in case of Total Incapacity but be calculated as half the prospective service to the member's normal pension age.

Total Incapacity shall be defined as health which precludes the member from working or enables the member to work only in a job of significantly lower weight/responsibility than that from which the member has had to retire.

Those who have to retire on the grounds of ill-health but who do not fall within the definition of Total Incapacity would be entitled to immediate payment of their accrued benefits but would not have any service enhancement.

The effect of these changes should be to keep expected costs for ill-health retirements within existing levels whilst directing the greatest benefit to those members with greatest need.

(viii) **Pensionable Pay**

Under current arrangements the pensionable pay for the calculation of benefits is the highest pensionable pay over a consecutive 12-month period in the last 3 years of service. In the vast majority of cases the last 12 months prior to leaving service provides the highest pensionable pay.

In order to provide protection during periods of pay restraint and, more importantly, to assist with flexible retirement (see (ix) below) the Panel recommends that pensions be calculated as the better of the last year's pensionable pay or the average of the best 3 consecutive years in the last 10 revalued in line with the increase in the Guernsey Index of Retail Prices (RPI) and that administrative arrangements be made as quickly as possible for that change.

(ix) Phased and Flexible Retirement

The present arrangements can be described as a “cliff edge” system whereby access to Scheme benefits is possible only on leaving service at or after normal pension age (benefits being paid in full) or prior to normal pension age (benefits being paid at a reduced rate) and in all cases total benefits are brought into payment.

The Panel recommends the introduction of flexible retirement arrangements such that from age 55 and subject to the member reducing their pensionable salary by 25% or more the member be able to access up to a maximum of 75% of their accrued benefits to supplement their reduced income whilst continuing in pensionable employment. The option would be available for a maximum of two occasions prior to final retirement and benefits accessed prior to normal pension age would be actuarially reduced and available for commutation in accordance with (iv) above. The part of the pension benefits left in the scheme could then be added to reckonable service accrued by subsequent employment and such benefits calculated in accordance with the revised definition of pensionable pay detailed in (viii) above.

(x) Buying in Additional Pension

At present members may purchase additional pension benefits expressed in terms of reckonable service usually by increasing their contribution rate from a date of their choosing until attaining normal pension age. The “added years” purchased are combined with the service accrued through employment for the calculation of total benefits.

The Panel recommends that for new applications this system of “added years” be replaced by the option to purchase, by lump sum or periodic payment, additional annual pension benefits expressed in multiples of £250 units up to a maximum of £5,000, such values to be index linked both before and after coming into payment.

(xi) Membership Limit

The Panel recommends that the upper age limit be 75. (It should be noted that membership would be conditional on the employer agreeing to continued

employment beyond age 65.)

The Panel also recommends the continuation of the existing policy that permanent full-time States employees who meet the eligibility requirements be compulsorily admitted to the scheme.

(xii) Service Limit

At present the maximum service for calculation of pension benefits is limited to 40 years at normal pension age and 45 in total. In the case of standard members who join before age 20 this can result in years before age 60 on which they contribute but which do not count for the calculation of benefits.

The Panel recommends that, in line with UK arrangements, the only limit on reckonable service be that of 45 years in total.

(xiii) Redundancy

The Panel has given particular consideration to the sensitive issue of redundancy pensions within the overall context of the package of measures for addressing potential redundancy situations.

The Panel has noted that the Public Sector Remuneration Committee has, or intends to have, agreements in respect of all States employees which:

- (a) are intended to avoid compulsory redundancy if at all possible; and
- (b) provide compensatory payments for employees made redundant who are not entitled to receive immediate payment of an enhanced pension.

The Panel notes the following in respect of redundancy and pensions:

- (a) apart from members who joined the Public Servants' Pension Scheme before 1 August 1988, only those who are within 10 years of normal pension age are entitled to immediate payment of benefits; and
- (b) irrespective of whether or not the member is entitled to immediate payment of benefits there is discretion to enhance the service on which benefits are based by up to 7 years but not so as to exceed the number of years the member would have accrued at normal pension age.

The Panel makes the following recommendations in respect of redundancy and pensions:

- (a) enhancement of service be restricted to members who are entitled to immediate payment of benefits; and

(b) enhancement of service to be specified as the lesser of:

- 5 years; or
- the period to normal pension age; or
- the length of qualifying service divided by 4.

The above recommendations would bring Guernsey arrangements broadly into line with comparative arrangements in the UK.

(xiv) Definition of Existing Member

As explained above the majority of the Panel's recommendations are common to both current and new members but in respect of normal pension age and pension accrual rate there are differences between current and new members. It is, therefore, necessary to define who would be eligible for the arrangements recommended for existing members.

The Panel recommends that the definition of existing member be:

- members of the Scheme at 31 December 2007 provided that if they have commenced or subsequently take a break from contributory service they return to contributory membership of the Scheme within 5 years of their last leaving and for a minimum specified period; and
- those who join the Scheme from comparable employment in the UK and enjoy protected rights in respect of (a lower) normal pension age in their UK scheme and who choose to be treated as an existing member.

(The purpose of the final point is to ensure that Guernsey is not placed in a detrimental position in seeking to recruit from the UK*.)

(xv) Employee Contribution Rates

At present the standard contribution rate is 6% although a small minority of full-time female members who joined the Scheme before 1 August 1988 and who are not providing for widowers' benefits contribute at a rate of 5%.

The Panel has noted that UK public sector schemes have reached agreement on an increase in standard employee contribution rates but the method of application has differed. Some have introduced tiered contributions – differing rates linked to salary bands – whereas others have retained a system of common contribution rates.

* The situation is more complicated in respect of Police Officers and Firefighters.

The Panel has noted that the limited benefit of tiered contribution rates for lower earning members would not justify the introduction of such an administratively more complex system. It, therefore, favours a standard employee contribution rate with such rate being broadly in line with the average employee contribution rate in the comparator schemes.

The Panel recommends a standard contribution rate of 6.5% of pensionable earnings for current and future employees (with a rate of 5.5% for those female members not contributing for widower's benefits).

Recommendations – Non-Standard Employees

Included within the Scheme are certain groups who have benefits in common with standard employees but who are entitled to receive such benefits at an earlier age and/or based on an accelerated accrual rate. These arrangements are in general designed to ensure comparability with their UK counterparts and part of the cost is met by the employees or office holders (but see also (iv) below).

The current arrangements for these special groups and the Panel's recommendations – where they differ from those for standard employees – are as follows:

(i) Firefighters (including Airport Firefighters)

Firefighters have a normal pension age of 50 and each year of service below the age of 50 except for years in excess of 30 accrues at $1\frac{1}{3}$. The employee contribution rate is 11%.

Senior Fire Personnel have a normal pension age of 55, the same accrual rate as the lower ranks and an employee contribution rate of 9.5%.

The Panel makes the following recommendations for new entrants to the Fire Services each of which is in line with the arrangements for UK Fire and Rescue Service personnel:

- a normal pension age of 60 (but benefits could be paid from age 55 if the employer determines an employee should be retired in the interests of the service);
- deferred benefits to be due at age 65;
- an employee contribution rate of 8.5%.

(ii) Police Officers

Police Officers have a normal pension age of 55 or from as early as 50 subject to 25 years Police Service and each year of service except those in excess of 30 accrues at a rate of $1\frac{1}{3}$. The employee contribution rate is 11%.

Senior Police Personnel have a normal pension age of 55, the same accrual rate as the lower ranks and an employee contribution rate of 9.5%.

The Panel recommends the following arrangements for new entrants to the Police Service each of which is in line with those for their UK counterparts.

- a normal pension age of 55;
- deferred benefits to be due at age 65;
- an employee contribution rate of 9.5%.

The arrangements for new entrants to the UK Police Service differ to those for standard employees (and Firefighters) in that they provide:

- an annual pension calculated on an accrual rate of $\frac{1}{70}$ for each year of reckonable service;
- a lump sum calculated on an accrual rate of $\frac{4}{70}$ for each year of reckonable service but which can be exchanged for a higher annual pension (i.e. reverse commutation).

However, it is relatively simple to accommodate Police Officers within the arrangements recommended for all other employees as follows:

- an accrual rate of $\frac{1}{60}$ with the option to commute part of pension for a lump sum (i.e. the same as all other employees)
- each year of reckonable service to count at $1\frac{1}{7}$.

It should be noted that this arrangement, which the Panel recommends, would guarantee that new Police Officers would have benefits which would be no less favourable than the benefits provided for their UK counterparts.

(iii) Crown Officers and Magistrates

Each year of reckonable service for the Crown Officers and Magistrates is, for the purpose of calculating the annual pension, counted as two years subject to a maximum of 40 years at normal pension age and 45 years at the age of retirement specified in their warrant. Each year of reckonable service is, for the purpose of calculating the lump sum, counted as one year. The member's contribution rate is 9.3%.

The Panel has noted that special provisions similar to the above remain in the UK Judicial Pensions Scheme and, therefore, recommends that new office holders be accommodated within the arrangements for new standard members in

a manner to reflect the benefits of the accelerated accrual rate which applies for current members.

(iv) **“Protected Members”**

As mentioned above, employees or office holders meet $\frac{1}{3}$ and the employer the remaining $\frac{2}{3}$ of the originally estimated costs of these additional benefits. This is in line with: the arrangements in comparator schemes; the practice when the contributory pension scheme was introduced in 1972; and the principle endorsed by the States in 1988.

However, when this principle was endorsed by the States in 1988 non-standard employees were contributing at the same rate as standard employees – notwithstanding their more favourable position – and in subsequent negotiations it proved impossible to reach agreement on an increase in contribution rate for either Police Officers or Firefighters who were already in the Scheme. Thus, only employees who joined the Scheme after 31 October 1991 contribute at the rates detailed in (i) – (iii) above. Those who have been in the Scheme since before that date contribute at the same rate as standard employees* which will increase as detailed under (xv) above.

In October 1991 the States noted the report from the Civil Service Board thereby expressing concern at the failure to secure agreement on an increase in contribution rate for existing members and leaving open the option for the employer to seek such change in the future should the opportunity arise.

The Panel has noted that although more than 15 years have elapsed there are more than 60 members who contribute at less than the rate which the States believes appropriate and this results in an element of divisiveness within the groups and, of course, expense for the employer. The Panel further notes that unless addressed the position could continue, albeit with diminishing numbers and expense, for another 20 years or more.

The Panel is of the view that this issue is essentially an industrial relations issue arising from pension arrangements and as such is one which the Public Sector Remuneration Committee, in conjunction with the relevant employing Departments, needs to consider.

Associated Bodies

Whilst the Public Servants’ Pension Scheme has been designed, through the normal processes of negotiation, for States employees it also has members who are employees of other “Associated Bodies”. The largest of these Bodies are Guernsey Electricity Limited, Guernsey Post Limited and the Guernsey Financial Services Commission but others include the three Colleges, and the Guille Alles and Priaulx Libraries.

* The situation is more complicated for Crown Officers and Magistrates.

The position of the Association Bodies in respect of pension arrangements is as follows:

- the Associated Bodies and their employees have full negotiating rights in respect of pay, pensions and conditions of service; but
- they have each, at various times, agreed that in respect of pensions (only) it is appropriate/convenient for them to have exactly the same arrangements as is determined for States employees;
- thus, the employees of these Associated Bodies are members of the Public Servants' Pension Scheme and receive benefits as if they were States employees;
- this position can continue only as long as both employer and employees in each of the Associated Bodies consider it remains appropriate.

In the light of the above situation, the Panel has consulted the three main Associated Bodies and representatives of their employees and taken into account views expressed when considering the detailed recommendations listed in respect of standard employees.

The Panel considers the wider issue of whether it remains appropriate for employees of these Associated Bodies to continue to receive pension benefits in line with those of States employees (and, thus, UK public sector employees) to be one for determination by the respective employers and employees. However, whilst this remains their choice the Panel sees no reason why the current arrangement of administration by the States should not continue.

Costs

In its consideration of costs the Panel has been conscious of, and wishes to emphasise, the difference between the true cost of the benefits provided and the actual level of employer's contribution at any particular time. This is explained in the States Report which resulted in the establishment of the Panel and the relevant extract is attached as Appendix III.

In addition, as the concluding paragraph of Appendix III explained, the estimated true long term cost (for the employer) of the existing benefits has risen from 13/14% to 15/16% because of increasing average life expectancy and further increases in this connection may arise in the future.

One of the reasons for the reform of UK public sector pension schemes (see Appendix I) was to address the projected increase in their costs which were arising, in large part, through increasing average life expectancy. It was necessary to take steps to ensure costs were contained in order to ensure the long-term sustainability of quality defined benefit schemes.

The Panel's work has been prompted, therefore, not only by the historical comparability

between Guernsey and UK public sector schemes but also by similar concerns about increasing costs. The Panel has been particularly interested in the projected financial impact of its proposal. As the Panel's proposals are for changes broadly in line with those in UK schemes it anticipated a similar financial impact.

The Panel has been provided with detailed actuarial advice on the projected financial impact of its recommendations. This advice is based on assumptions which after discussion with the Actuary the Panel believes are reasonable and prudent. In particular, it should be noted that the estimated savings are highly dependent on the level of take up of commutation of pension. The Panel is, however, satisfied that the assumptions made in this connection are reasonable.

The advice is that the recommendations will have the following impact on scheme costs:

1. a reduction in the liability in respect of the past service of existing Scheme members (arising through the commutation of pension). This has been estimated as £13 million in respect of States employees;
2. a reduction in costs in respect of the future service of existing Scheme members from 1 January 2008. This has been estimated as equivalent to 0.6% of pensionable salaries or £800,000 per annum in respect of States employees;
3. a lower cost in respect of new Scheme members such that over an approximate fifteen-year period the overall reduction in costs in respect of States employees is estimated to rise to equivalent to 1.6% of pensionable salaries or £2.1 million per annum (in current values).

The impact of the proposals on each of the Associated Bodies has also been calculated and will be provided to them separately.

The Panel further notes that each of the UK schemes has provision for further review in the event of costs increasing above those currently anticipated for reasons such as even greater life expectancy. The objectives for the Guernsey public sector schemes (i.e. to maintain broad comparability with the UK schemes) would result in similar further reviews in Guernsey.

Administrative Resources

At an early stage in its discussions the Panel noted, with some concern, that the current arrangements for the administration of public sector pensions relied, almost exclusively, on two employees of the Public Sector Remuneration Committee whose work was based on calculations undertaken manually.

The Panel is fully conscious that some of its recommendations, which introduce additional options for members and thus added complexity, will not be capable of implementation without the introduction of computerised systems and this will involve

considerable investment of time and some, limited, expense.

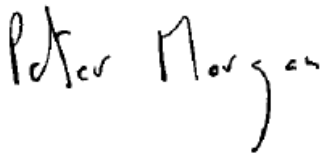
The Panel is pleased that some initial work has commenced but emphasises that implementation of its recommendations, which may have to include transitional arrangements, will have to be handled sensitively in order to avoid the pensions section being overwhelmed.

Summary

Over the last six months the Panel has held a series of meetings during which, and in accordance with its terms of reference, it has given consideration to the revised arrangements which apply to UK public sector employees.

As a result of its deliberations the Panel is able to present a detailed set of recommendations which represent the unanimous view of the Panel on appropriate arrangements for public sector employees in Guernsey in accordance with the objectives endorsed by the States to maintain broad comparability with the revised arrangements which apply to their UK counterparts.

Yours sincerely

A handwritten signature in black ink, reading "Peter Morgan". The signature is written in a cursive style with a large, stylized 'P' and 'M'.

P Morgan
Chairman

APPENDIX I**UK PUBLIC SERVICES FORUM****18 OCTOBER 2005****REFORM OF PUBLIC SERVICE PENSION SCHEMES: THE WAY FORWARD FOR TEACHERS, THE NHS AND THE CIVIL SERVICE**

"Public service pensions are a key benefit of public service employment and should be celebrated as such. They should continue to be good quality public service pensions schemes that are sustainable, defined benefit and index linked. Changes in demographics, employment patterns, and the legal and regulatory framework require public service pension schemes to be modernised. Underlining the importance of a diverse workforce, there is scope to address how to develop flexible retirement options to meet the needs and aspirations of older workers and to make the most of their experience and expertise." (PSF pay principles, February 2005).

To build on that agreement, schemes should have flexibility to determine their details consistent with the following framework principles and a cost envelope for each scheme that will be respected. This will be set out at an early stage of the negotiations and signed off by the Chief Secretary.

Framework principles for scheme negotiations

1. Workforces and their representatives should be informed of all the options and issues about reform of their pension schemes. Trade unions, employers and the Government are committed to moving forward together on the basis of transparency, shared information and joint working. All sides are fully committed to an open and evidence based approach that explains and justifies the policy approach and the possible alternatives.
2. Key priorities that should be addressed as part of the evidence gathering at scheme level should include: (a) demographics for the scheme and, subject to availability of data, for groups of workers; (b) scope to improve individual choice over how long to work for, including increased flexibility to choose a retirement date different from normal pension age; (c) scope for increasing take-up; (d) the role of good pensions as a key element of the overall remuneration package and in supporting recruitment and retention; and (e) robust costings of the proposals and their likely impact on long term affordability.
3. A co-operative approach should be adopted in all discussions. Adequate time should be made for this process and all sides are committed to working towards a final agreement following consultation with workforces as quickly as possible. All sector scheme negotiations should complete their initial discussions by no later than March 2006. This will be followed by a sufficient period to allow adequate consultation, with the aim of reaching agreement by no later than June

2006. Implementation of the new schemes for new entrants should follow as soon as practicable thereafter in each scheme.

4. A principle underlying this agreement is that existing scheme members will have the right to suffer no detriment in terms of their normal pension age and will retain their existing pension provision unless individual or collective agreements within sector specific negotiations are reached which allow changes to those provisions or transition to new schemes. The accrued pensions rights of the existing workforce will be fully protected in the event of transition. New entrants from the date of implementation will only be offered pensions in the new schemes negotiated through the sector specific discussions.

Features of new schemes

5. New schemes should continue to guarantee defined benefit provision, linked to an individual's earnings. Schemes should also offer indexation to protect retired members against rises in the cost of living.
6. All changes to schemes should be equality-proofed before implementation.
7. New schemes should be designed with the objective of increasing appropriate take-up especially amongst part-time and lower paid workers and others who are eligible but where participation in the scheme may be lower currently.
8. As people live longer, healthier lives, it is likely more will choose to continue working for longer. This makes it crucial that schemes give greater flexibility than in the past to those who wish to use part-time work as a stepping stone to retirement, and also greater recognition to service by those who choose to work beyond typical retirement ages.
9. For the purposes of calculating accrual of pensions, 65 will be the reference age (the "NPA") for new entrants to the new schemes entering employment after the implementation date. But not all new members will want to work longer, and all new scheme members will continue to have the right to retire at age 60. All new scheme members who under the new arrangements would retire on a lower pension than they would under existing rules will be offered the opportunity to increase contributions so members can continue to retire on a full pension at age 60. Those who wish to continue to work to the new normal pension age will be able to do so at the standard contribution rate.
10. Government will make available approximately 1 % of pay roll to improve benefits in the new schemes, such as improved survivor benefits, or to deal with transition arrangements/protection for existing scheme members.
11. Scheme specific negotiations should take account of the special physical and mental demands of many public sector jobs, and the resultant continuing importance of early retirement provision for those with ill health.
12. The PSF will review the operation of these principles early in the New Year.

APPENDIX II**Commutation Example for Current Member**

Service at retirement = 30 years

Pensionable Pay = £20,000

Pension entitlement: $\frac{1}{80} \times 30 \times £20,000 = £7,500$ pa

Lump sum entitlement: $\frac{3}{80} \times 30 \times £20,000 = £22,500$

Under the new proposals, a member would be able to give up part of the pension of £7,500 pa to receive a larger lump sum. For each £1 pa of pension given up, a lump sum of £12 would be received.

The overall maximum lump sum available (including the automatic lump sum entitlement) would be calculated as:

$$\begin{aligned} \frac{1}{4} \times [(20 \times \text{pension}) + \text{lump sum}] &= \frac{1}{4} \times [(20 \times 7,500) + 22,500] \\ &= \frac{1}{4} \times 172,500 \\ &= £43,125 \end{aligned}$$

If a member wished to receive this maximum lump sum, they would need to give up the following pension to provide the additional lump sum of £20,625 (ie £43,125 - £22,500)

$$\frac{43,125 - 22,500}{12} = £1,718.75 \text{ pa}$$

The residual pension received by the member would then be:

$$£7,500 - £1,718.75 = £5,781.25 \text{ pa}$$

In summary, the member could opt to give up part of their pension to produce a larger lump sum with the maximum lump sum and residual pension being:

Lump sum : £43,125

Pension : £5,781.25 pa

It would be up to the member to decide how much lump sum, between £22,500 and £43,125, to take.

APPENDIX III**EXTRACT FROM REPORT APPROVED BY STATES IN OCTOBER 2006***Employers' Contribution Rates*

21. Although the *[Treasury and Resources]* Department is responsible for the Superannuation Fund (and thus the employers' contribution rates) the *[Public Sector Remuneration]* Committee, employees and employers are conscious that the review has been prompted by the most recent actuarial valuation of the Fund. Thus the following important points have been noted:

- * in general in defined benefit schemes employees' contribution rates are fixed and the employer's contribution rate is expected to fluctuate following actuarial valuations to meet the balance of costs. This fluctuation will take the employer's rate above or below the true cost of benefits depending on the performance of investments. Employee contribution rates could change but only through an amendment to scheme Rules following consultation with members.
- * this approach was endorsed by the States following a major review in the mid-1980s at which time the main employer's contribution rate was in the region of 13 – 14% which was approximately in line with the true cost of benefits. In endorsing this approach the States acknowledged that when investments performed well the employer (not the employees) should benefit and, in return, when investments performed poorly, the employer (not the employees) should meet the burden.
- * since that report and, in particular since 1997, investment performance has enabled the employer in respect of the majority of employees to contribute at approximately half the true cost of benefits – whilst not taking a contribution holiday, the employer has been operating at only part-time level. This level of contribution was made on the full understanding that the position was only temporary and that it would be appropriate for budgetary arrangements to reflect the temporary nature of this beneficial position;
- * the actuarial valuation as at 31 December 2004 indicated a change of circumstances – after a decade of being able to contribute at significantly below the true cost of benefits, the employer may now have to contribute for a similar length of time at a similar amount above the true cost.

NB: the most recent information from the Actuaries (see paragraph 38 et seq) indicates an improved position as at 30 June 2006.

22. Aside from the expected fluctuations described above, and of more significance to the review, the true cost of benefits has risen because of increased life expectancy. Thus, the true cost of benefits which required an employer's contribution rate in the region of 13 – 14% has risen to 15 – 16%. It is this increase which needs to be addressed.

(NB The Policy Council supports the proposals.)

(NB The Treasury and Resources Department comments are set out below.)

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port
GUERNSEY
GY1 1FH

26th September 2007

Dear Deputy Torode

**PUBLIC SECTOR REMUNERATION COMMITTEE –
REVIEW OF PUBLIC SECTOR PENSION SCHEMES**

The Treasury and Resources Department supports the Public Sector Remuneration Committee's States Report as the recommendations are in line with the decision of the States in October 2006 to confirm the objectives for Guernsey public sector pension schemes including that *"benefits and terms should in general approximate to those available in the UK and elsewhere for equivalent groups."*

However, these proposals do not address the key issue of the on-going funding of the defined-benefit pension scheme for public sector employees. The States is currently making contributions to the Superannuation Fund that are significantly below the 'true' cost of providing the pensions. In respect of General Revenue Departments, the approximate current employer contributions to the Superannuation Fund are £12million per annum. It is estimated that the 'true' cost is somewhere in the region of double this figure. In addition, the Superannuation Fund is 'in deficit' and substantial additional contributions over a number of years would be required to achieve a fully funded position (i.e. sufficient assets to cover the present value of the schemes' liabilities).

It should be remembered that although the Superannuation Fund is in deficit (as calculated by the Actuaries) the amount of contributions (employer plus employee) and the investment income consistently exceed the pensions being paid by a considerable sum (£20million in 2006). The value of the Superannuation Fund is, of course, heavily influenced by the market performance of the underlying investments. It is not unusual for the value of the Superannuation Fund which is currently £875million to fluctuate by in excess of £10million in a day.

A full actuarial valuation of the Superannuation Fund will be carried out as at 31

December 2007 and the Treasury and Resources Department will be required to report to the States on the available options and costs for the funding of the scheme.

Yours sincerely

L S Trott
Minister

The States are asked to decide:-

XIV.- Whether, after consideration of the Report dated 30th August, 2007, of the Public Sector Remuneration Committee, they are of the opinion:-

To endorse the agreement reached with all the representative organisations on revised arrangements, appropriate for current circumstances, as set out in that Report

PUBLIC ACCOUNTS COMMITTEE

REVIEW INTO GUERNSEY WATER

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

4th September 2007

Dear Sir

1. Executive Summary

- 1.1 The Public Accounts Committee (the Committee) initiated this review to ensure that Guernsey Water, the only utility still within the States of Guernsey structure, was efficient, effective and economic.
- 1.2 Following normal tender procedures, the Committee appointed the Wales Audit Office (WAO) to carry out the review.
- 1.3 The WAO concluded that:

Figure 1

“Guernsey Water is providing value for money within the context of its operation as an island water-supply company. While there are some opportunities for achieving additional value for money from Guernsey Water, there appear to be greater opportunities which could be realised through changes in the relationships between Guernsey Water, the Public Services Department and also the States of Guernsey.”

Source: Wales Audit Office Report on Review of Guernsey Water, page 3

- 1.4 The main concern raised in the review was the lack of regulation over Guernsey Water. Unlike other island utilities, its operations were not open to scrutiny. Another concern was the outdated legislation (from 1927) under which Guernsey Water is currently operating.
- 1.5 The WAO review also identified that performance measures and setting out business cases for centralisation of activities need to be formulated.
- 1.6 The exclusion of the provision of water in the States of Guernsey Business Plan

is of some concern to the Committee primarily because the States have sole responsibility for the supply and quality of water.

- 1.7 The Committee is pleased to report that Guernsey Water is providing value for money for its customers, and it supports the WAO conclusion and recommendations.

2. Background

- 2.1 One of the roles of the Committee is to examine whether public funds have been applied for the purposes intended by the States and to ensure that extravagance and waste are eradicated. In order to achieve this role, the Committee has undertaken a series of reviews to ensure that the States of Guernsey achieves value for money.

- 2.2 A Working Party of the Committee identified Guernsey Water as one of the areas on which it would focus in early 2005 and, with this in mind, an assessment was made of the need and this included a visit to Jersey Water. In June 2005, The functions and operations of Guernsey Water were identified as a potential value for money review as:

- water is a necessity to sustain life,
- there was uncertainty on whether or not it was efficient,
- Guernsey Water remains the only States owned utility not regulated as a result of the 2001 review,
- it was unknown whether the organisation was suited for commercialisation/privatisation,
- there were issues concerning political input since the Machinery of Government changes,
- there had been a large capital expenditure programme, which is ongoing.

- 2.3 As this was a stand alone review, the Committee took the opportunity to use another third party to carry out the performance review. Following a successful tender, the Committee awarded the contract to the WAO.

- 2.4 The WAO commenced work in April 2006 and carried out a series of interviews and workshops in order to supplement the documentary evidence gathered to complete its report.

- 2.5 The Public Services Department (PSD) has responsibility for advising the States on matters relating to the public water supply and exercised the powers and

duties conferred on it in relation to the former Water Board. This resulted in the transfer of responsibility for Guernsey Water from a committee with its own political identity to becoming one of the satellite organisations reporting to the bigger PSD. The review covered the impact of the change in reporting structure following the governmental changes in 2004 as well as the value for money provided by Guernsey Water, PSD and the States as a whole.

- 2.6 The WAO report was finalised in November 2006 and final production was delayed due to the involvement of the WAO in the Clinical Block investigation.
- 2.7 In March 2007, the Committee invited the PSD Chief Officer, supported by relevant senior staff from his Department, to give evidence in a hearing and that and other evidence provided and researched has been used in compiling this report.
- 2.8 This report details the views of the Committee on the WAO report and makes its own recommendations on the way forward for the PSD and its satellite, Guernsey Water.

3 Guernsey Water is providing value for money for the States of Guernsey within the context of its particular business and the island setting

- 3.1 In comparing with the measures and indicators of other jurisdictions and UK Water Regulators, WAO has concluded that Guernsey Water is providing value for money for the States of Guernsey as well as a quality product and service.
- 3.2 The WAO provided information and graphs demonstrating the efficiencies and effectiveness of the service provided by Guernsey Water by comparing their performance in 2005 against other providers. At the hearing on the WAO Report, the Committee was informed that direct comparisons with other providers for 2006 based on WAO analysis have not been maintained, mainly due to the unpublished source of data. Therefore there is no guarantee that the same performance continued throughout 2006. However, its own self monitoring, such as unit cost of producing water, the unit cost of delivery of water, the frequency of burst pipes and the overall level of unaccounted for water, as reported in the Guernsey Water's Annual report for last year, indicated that it continues to improve from one year to the next.
- 3.3 The governance arrangements within Guernsey Water were identified as being well developed and risk management in particular being progressed.
- 3.4 **The Public Accounts Committee is pleased that the local provider of the most important resource needed to sustain life compares well with non-local operations and is considered effective, efficient and economical – the three e's of value for money. However, the comparison with non-local operations should be maintained.**

4 Developing the current governance arrangements for Guernsey Water would enhance strategic risk management and support greater value for money

- 4.1 Elsewhere, most utilities are regulated and in Guernsey, telecommunications, electricity and the postal service are regulated by the Office of Utility Regulation (OUR). The WAO has indicated that regulation protects the health and well being of water users, the wider environment through impact of water abstraction and discharges and the impact of financial costs imposed on water users. In the United Kingdom water authorities are regulated by Ofwat, the drinking water inspectorate and the Environment Agency.
- 4.2 There is no such regulator for Guernsey Water and legislation governing water is set out in the 1927 Water Law. Although the law may have been amended and updated numerous times the law cannot be fit for purpose in relation to the modern requirements for quality, management, storage, conservation, pollution, contamination etc.. The Committee was informed that the law would not be updated until such time as the decision is taken on waste water so that the two laws could be amalgamated and also that there was no direct legislation that could be copied.
- 4.3 Jersey has a number of laws governing its water supply and water company, Jersey Water¹, but the one law that relates most to the business carried out locally, is the Water (Jersey) Law 1972. Laws relating to waste water or sewage are contained in the Drainage (Jersey) Law 2005.
- 4.4 The States of Jersey have now approved a law on water resources to protect, better manage and enhance water resources in the Island. Schedule 4 of the Law lays out the operations to be carried out by a regulator. Although regulation may not be in the same vein as that recommended by the WAO, the Jersey States have resolved that this role will come under the responsibility of Planning and Environment, and this is confirmed in their business plan for 2006 where it states:

Figure 2

“- ensuring the management of the Island’s water resources is environmentally and economically sustainable, monitoring the aquatic environment and regulating Jersey water to ensure adequate supply of wholesome water”

Source: States of Jersey website, Planning and Environment 2006 Business Plan

¹ The States of Jersey has a majority share holding of 74% in Jersey Water.

In another example, Scotland appointed a Water Industry Commissioner in 1999 so that Scottish Water, a new monopoly operation, did not operate inefficiently.

- 4.5 At the time of the hearing, the PSD was in the process of making arrangements to meet with the OUR for guidance on regulation.
- 4.6 The report by the WAO recommends that the PSD and Guernsey Water develop and use a set of appropriate performance measures. The Committee believes that these are still under consideration and not as yet formulated.
- 4.7 At the time of the review, PSD was determined that savings could be achieved by the transfer of services to the centre. The WAO was wary as to whether this could provide the desired financial savings. However, this is one area where there has been progress as payroll is now carried out by central payroll and payments of invoices through SAP, the States computer system, is being investigated. In addition, in order to achieve efficiencies, raising and collection of sewage invoices (and associated personnel) have been transferred to Guernsey Water.
- 4.8 The Public Accounts Committee shares the caution raised by Wales Audit Office in that careful consideration should be given before centralising activities which may have a detrimental effect on the operations of the satellite body.

5 The States of Guernsey needs to clearly articulate its long-term aspirations for water in Guernsey

- 5.1 Although the States of Guernsey have approved a government business plan, it has yet to consider the plans for water resources which will replace the current Strategic Policy 27. However, the storage of water was considered when discussing the Future of Solid Waste, Water and Stone Reserves in Guernsey of Billet D'Etat XV, 2006.
- 5.2 Although storage of water is an important facet of the water cycle there should be a corporate responsibility to produce best standards of water quality and treatment as well as the environmental issues in collecting it. The risks associated with poor water supply can be great and result in epidemics. **This report has already indicated the action taken by other jurisdictions in controlling and protecting water supplies by updating laws, and the States of Guernsey should do likewise.**
- 5.3 Jersey has already recognised the importance of water in its Strategic Plan 2006-2011 within its Commitment Four (page 26-27) to maintain and enhance the natural and built environment, whereby the basic infrastructure including water supplies should be maintained and renewed. It also refers specifically to debating water resources in order to achieve international standards for its water.
- 5.4 In the next phase of the Government Business Plan, the States should consider including the provision and quality of water supply as a strategic policy.

- 5.5 In many jurisdictions, the Water Supplier is also responsible for waste water collection, treatment and disposal activities. Although this was being considered at the time of this review, PSD is still deliberating on the most appropriate action to take in this respect. The Committee understands that the PSD is bringing the matter to the States shortly.
- 5.6 As part of the review, the WAO considered whether the water operations should be commercialised. In May 1998, the States considered a Review of the Status of the Trading Boards² and whether the various utilities owned by the States of Guernsey should become trading companies. This report did state that the entities being removed should not have any involvement in or significant effect on meeting strategic objectives. In 1996, the former Advisory and Finance Committee's Policy Planning, Economic and Financial Report - Strategic Priority 19 was:

Figure 3

<p>“S.P.19 The Island's water supply needs both in terms of the allocation of land for development and water storage shall be taken into account.”</p>
--

Source: Billet D'Etat XIV, 10 July 1996 page 21.

Therefore, this prevented the former States Water Board from the commercialisation process at that time.

- 5.7 In this review, nearly ten years later, WAO has concluded that there is no benefit from commercialising the service as it would be difficult to exceed the current delivery and performance.
- 5.8 **The Public Accounts Committee supports this view as there are no gains from commercialisation and recommends the States should ensure that water, as a necessity to life, is controlled and regulated and gives greater prominence to water in the Government Business Plan.**

6 WAO Recommendations

- 6.1 The Wales Audit Office Report made six recommendations in order to strengthen the relationship, regulation and resources between the satellite operation of Guernsey Water and the Public Services Department. The main body of this report has already incorporated the comments of the Committee relating to the recommendations.
- 6.2 The recommendations within the WAO Report are:

² Billet D'Etat X, 27 May 1998, page 559

Figure 4

- | | |
|---|--|
| a | The challenge to Guernsey Water provided by the PSD Board needs to be strengthened to appropriately reflect the mitigation of the risks identified. |
| b | The States and the PSD need to clarify arrangements for the future regulation of Guernsey Water. If PSD or another body is to undertake this role, it needs to strike an appropriate balance between governance and regulation. |
| c | The performance management of Guernsey Water by the PSD needs to focus on key issues of strategic importance and value. Jointly developing and agreeing a set of balanced (financial, operational, customer focused and corporate health) indicators alongside a reporting and monitoring framework, will help to focus on key issues. |
| d | The centralisation of Guernsey Water support services should be supported by clearly communicated business cases which demonstrate the benefits of the proposals. |
| e | The States needs to clearly articulate its long-term aspirations for water in Guernsey to ensure the PSD and Guernsey Water are able to develop coherent business plans and strategies. |
| f | The financial and organisational arrangements for waste-water activities need to be clearly understood to establish if any additional value for money could be delivered.” |

Source: Wales Audit Office Report on Review of Guernsey Water, page 7

7 Conclusion

- 7.1 The Wales Audit Office report on the review of Guernsey Water is positive and indicates that Guernsey Water is achieving value for money.
- 7.2 The Public Accounts Committee supports the recommendations of the Wales Audit Office and looks forward to their implementation. The Committee will monitor progress in the implementation of the recommendations.

8 Comments of the Public Services Department

- 8.1 The normal procedure for Public Accounts Committee reports is that Departments have the opportunity to convey their views on the report findings and recommendations.
- 8.2 Unfortunately, although having received the Committee's States Report on 4 July 2007 and subsequently meeting with the Committee on 4 September, the Public Services Department has been unable to formally reply to this positive Report in time to meet the October 2007 deadlines. Therefore the comments of the Public Services Department are not attached to this States Report.

9 Recommendations

9.1 The Public Accounts Committee recommends the States:

- a) To note the report.
- b) To direct the Public Accounts Committee to monitor and review the action taken by the Public Services Department in considering and implementing the recommendations as outlined in Section Six, Figure 4, of this report.

Yours faithfully

Leon Gallienne
Chairman

(NB The full Wales Audit Office Report, which is appended to this Report, is published separately.)

(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 4th September, 2007, of the Public Accounts Committee, they are of the opinion:-

- 1. To note the Report.
- 2. To direct the Public Accounts Committee to monitor and review the action taken by the Public Services Department in considering and implementing the recommendations as outlined in Section Six, Figure 4, of that Report.

APPENDIX I

COMMERCE AND EMPLOYMENT DEPARTMENT

ANNUAL REPORT OF THE PUBLIC TRUSTEE AND AUDITED ACCOUNTS

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

27th August 2007

Dear Sir

The Public Trustee (Bailiwick of Guernsey) Law, 2002 provides, in Section 6(1), that the Commerce and Employment Department is required to submit the report and accounts to the States on the exercise of the Public Trustee's functions for the preceding year.

I am pleased to enclose a copy of his report and audited accounts for the period 1 January 2006 to 31 December 2006.

Section 6 of the Law also provides that the Department may, at the same time, submit its own report commenting on the activities of the Public Trustee during this period.

The attached report is comprehensive and the Department wishes to make no further comments other than to acknowledge that the expenditure of £9,347 in 2006 represented value for money at a minimal cost.

Section 11 of the Law provides for the Department to approve the appointment of auditors to the Office of Public Trustee. The Department is pleased, following consultation with the Public Accounts Committee, to recommend the appointment of Lince Salisbury with effect from 1 January 2007.

I would be grateful if you would arrange to publish this submission as an Appendix to the October Billet.

Yours faithfully

Stuart Falla
Minister

**REPORT OF THE PUBLIC TRUSTEE TO THE DEPARTMENT OF
COMMERCE AND EMPLOYMENT
FOR THE YEAR TO 31 DECEMBER 2006**

Introduction

1. Under Section 6(1) of The Public Trustee (Bailiwick of Guernsey) Law, 2002, the Public Trustee is required in each calendar year to submit to the Department of Commerce and Employment a report on the exercise of his functions in the preceding year together with the audited accounts of the Office of the Public Trustee.
2. This report covers the twelve months to 31 December 2006.

Appointments and Assets held in Trust

3. During the period covered by the report, no appointments of the Public Trustee to act as trustee were made.
4. The Public Trustee remained as trustee of the two trusts to which he was appointed in 2004, as stated in the report for that period.
5. The assets of the trusts were cash deposits (in sterling and US dollars) of approximately similar values amounting in total at the end of 2006 to the equivalent of about £201,000. The decrease compared with the balances at the end of 2005 (£205,000) is due entirely to the deterioration in the value of the US dollar against sterling over the period.
6. The fees recoverable from the trusts for 2006 for the services of the Public Trustee amounted to £675.

Accounts and Auditors' Report

7. The accounts of the Office of the Public Trustee for the year to 31 December 2006, together with the auditors' report thereon, accompany this report.
8. They show that the cost of operations of the Office in 2006 amounted to £9,347. Against this, £675 was recoverable in fees. The decrease compared with fees recoverable for previous years (2005: £1,314) is due to those years having borne the initial costs of establishing administrative and accounting arrangements upon receipt of the trust assets.
9. There was a deficit of income (including the grant from the States) compared with expenditure of £2,987 for the year, compared with an excess of £5,073 in 2005. However, this has not been due to increased expenditure. It is mainly the result of meeting current expenditure as far as reasonably possible from the

balance of the Public Trustee Fund and thus reducing the amount of grant income needed from the States. The remaining balance on the Public Trustee Fund at 31 December 2006 was £2,696.

Conclusion

10. The primary function of the Public Trustee is to act as a trustee of last resort. The fact that there have been no appointments and little other call on the services of the Public Trustee during 2005 and 2006 can therefore be taken as an indicator of the continuing effective, orderly and well regulated conduct of trust business in the Bailiwick.
11. Nevertheless, should further appointments be made, arrangements remain in place to deal with an increased workload, in particular the power of the Public Trustee to delegate trustee functions and the abilities of the professional companies to which such functions would be delegated.

D P Trestain
Public Trustee
Bailiwick of Guernsey

10 August 2007

Office of the Public Trustee

Statement of account

31 December 2006

Office of the Public Trustee

Statement of responsibilities for the preparation of financial statements

In accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002 the Public Trustee is responsible for the preparation of a statement of account for each financial year which gives a true and fair view of the state of affairs of the Office of the Public Trustee. He is responsible for selecting suitable accounting policies and, in preparing the statement of account the Public Trustee is expected to:

- apply suitable accounting policies on a consistent basis;
- 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 accounts; and
- prepare the statement of account on a going concern basis, unless it is inappropriate to do so.

The Public Trustee acknowledges responsibility for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Office of the Public Trustee.

It is the responsibility of the Office of the Public Trustee to identify and install a system of internal controls, including financial control, which is adequate for its own purposes. Thus the Office of the Public Trustee is responsible for safeguarding the assets in its care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.



KPMG Channel Islands Limited
 20 New Street
 St Peter Port
 Guernsey
 GY1 4AN

Independent auditors' report to the Office of the Public Trustee

We have audited the financial statements of the Office of the Public Trustee for the year ended 31 December 2006 which comprise the income and expenditure account, the balance sheet and the related notes. These financial statements have been prepared under the accounting policies set out therein.

Respective responsibilities of the Office and auditors

The Office is responsible for the preparation of the financial statements in accordance with applicable Guernsey law and UK accounting standards as set out in the statement of responsibilities.

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. We also report to you if, in our opinion, the Office 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 statement of activities and performance and consider the implications for our report if we become aware of any apparent misstatements within it.

Basis of audit opinion

We conducted our audit in accordance with 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 Office in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Office'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 Office's affairs as at 31 December 2006 and of its deficit for the year then ended.

KPMG Channel Islands Limited
 Chartered Accountants

Date: *7 August 2007*

Office of the Public Trustee

Income and expenditure account
for the year ended 31 December 2006

	<i>Note</i>	2006 £	2005 £
Income	<i>1</i>		
Grant from States General Revenue Account		5,685	15,494
Trustee fees		<u>675</u>	<u>1,314</u>
		6,360	16,808
Expenditure	<i>1</i>		
Audit fees		1,900	3,150
Bank charges		95	47
Public Trustee remuneration		6,681	7,405
Office administration		<u>671</u>	<u>1,133</u>
		9,347	11,735
(Deficit)/excess of income over expenditure for the year		£ (2,987)	£ 5,073

Office of the Public Trustee

Balance sheet

As at 31 December 2006

	Note	2006 £	2005 £
Current assets			
Debtors		675	-
Bank		<u>4,336</u>	<u>7,583</u>
		5,011	7,583
Current liabilities			
Creditors	4	410	-
Accruals	4	<u>1,905</u>	<u>1,900</u>
		2,315	1,900
Net assets		£ <u>2,696</u>	£ <u>5,683</u>
The Public Trustee Fund			
Retained excess of income over expenditure	5	£ <u>2,696</u>	£ <u>5,683</u>

The balance sheet was approved on

6 August 2007 by:



D Trestain
Public Trustee

Office of the Public Trustee

Notes to the financial statements year ended 31 December 2006

1. Accounting policy

The statement of account is prepared under the historical cost convention and in accordance with UK applicable accounting standards.

Grants

Grants from the States of Guernsey Commerce and Employment Department are included on a cash basis. Grants have been recognised as revenue items.

Other income and expenditure

Other income and expenditure is included on an accruals basis.

2. Taxation

The Office of the Public Trustee is not subject to States of Guernsey Income Tax.

3. Period of account

The Public Trustee (Bailiwick of Guernsey) Law, 2002 came into effect on 1 June 2004.

4. Creditors and accruals

	2006 £	2005
Administration and Deputy Trustee charges from Commerce & Employment Department	<u>410</u>	—
	£ <u>410</u>	£ —
Audit fee	1,900	1,900
Bank charges	<u>5</u>	—
	£ <u>1,905</u>	£ <u>1,900</u>

5. Reserves

	2006 £	2005 £
Retained excess of income over expenditure b/f	5,683	610
Deficit of income over expenditure	<u>(2,987)</u>	<u>5,073</u>
Retained excess of income over expenditure c/f	£ <u>2,696</u>	£ <u>5,683</u>

*APPENDIX II***COMMERCE AND EMPLOYMENT DEPARTMENT****ANNUAL REPORT AND ACCOUNTS 2006 OF
THE OFFICE OF UTILITY REGULATION**

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

31st August 2007

Dear Sir

I enclose a copy of the Annual Report and Accounts 2006 of the OUR and would be grateful if you would arrange for it to be published as an Appendix to the October 2007 Billet d'État.

While the costs of the OUR increased in 2006 compared to 2005, this was largely due to legal expenses related to the 3G appeal by C&W Guernsey and increases in staff costs offset to some extent by a reduction in consultancy expenses.

Legal fees related to appeals represent the largest external risk in trying to minimise costs in a small jurisdiction, where such costs, if incurred, are likely to make up a comparatively high proportion of overall regulation costs. Although the risk of an appeal can never be eliminated, further consideration is being given by the OUR to any other steps that can be taken to minimise the likelihood of an appeal in the future, and the financial consequences of such an appeal should it occur.

In 2006 the OUR added £340,000 to the contingency fund to cover possible future litigation costs. Once it has been established if any of the costs related to the 3G appeal are recoverable, the OUR will review the overall level of the contingency fund.

When comparing staff costs it should be borne in mind that in 2006 the OUR was operating at its full staff complement whereas in 2005 it was below complement. The 2006 staff costs show a less than 6% increase over staff costs in 2004. Consultancy costs in 2006 were 7% below those of 2005.

Overall, a significant reduction in licence fees, of 33% for post and electricity and 28% for telecommunications, has been implemented for 2007 and 2008, and the contingency fund will continue to be used to help stabilise licence fees.

The Audit, Risk and Remuneration Committee was formally established in June 2006 and has played an important role in the OUR's corporate governance, giving assistance on a range of matters, details of which are included in the Report.

Yours faithfully

Stuart Falla
Minister



OUR

Office of Utility Regulation
Annual Report and Accounts 2006



31st July 2007

Deputy Stuart Falla,
Minister for Commerce and Employment,
Raymond Falla House,
Longue Rue,
St Martins,
Guernsey,
GY4 6AF

Dear Deputy Falla,

I am pleased to submit this report on the activities of the Office of Utility Regulation for the period 1st January 2006 to 31st December 2006.

In accordance with section 8 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, I would be grateful if you would present this report to the States of Guernsey as soon as practicable.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'John Curran', is written over a light blue rectangular background.

John Curran
Director General
of Utility Regulation

**Suites B1 & B2, Hirzel Court, St Peter Port, Guernsey GY1 2NH
Tel: +44 7781 711120 Fax: +44 7781 711140 Web: www.regutil.gg**

The Office of Utility Regulation

Annual Report 2006

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The Office of Utility Regulation

Annual Report 2006

Director General's Report

I am pleased to present the OUR's Annual Report for 2006. It was another busy and challenging year for the Office with significant regulatory activity across all three sectors and changes to the regulatory framework following the States debate on commercialisation in May 2006. I am pleased that the States endorsed the work that this Office is continuing to perform and that its contribution has been acknowledged by the independent report from the National Audit Office. It is however important that this Office reflects on the NAO review. In doing so it is important to frame any assessment of how we as an Office perform our role to look at what our mission was and how this was framed, when the OUR was established.

In September 2001 the States of Guernsey, through the Advisory & Finance Committee, laid out the challenge that *"effective regulation within the commercialisation framework will drive efficiencies that will result in lower charges to customers than would be the case with no, or with ineffective, regulation."* In assessing this it is important to see how consumers have fared over the intervening period.

By the end of 2006, the OUR had considered six applications for tariff increases from the three utility sectors. Resulting from the OUR's work, coupled with separate targeted reviews on other areas such as broadband prices and leased line charges, the OUR has reduced the total tariffs to be paid by Guernsey consumers by over £40 million or put another way, over £640 per consumer. At the same time, quality of service has improved across all sectors, key infrastructure has been maintained and supported and competition in the telecoms market is increasing which in turn is delivering further savings, enhanced services and greater responsiveness to customers. This saving does not consider the additional benefits gained through the introduction of competition, which in the mobile sector in particular, are significant.

This is very positive for consumers, but it is even more important for the Bailiwick's economy. The £40 million that consumers have not had to pay for utility services can be used by Islanders to support other businesses and other areas of the Guernsey economy. Indirectly, the reduction in charges (either through falling charges or smaller increases in tariffs) contributes to helping reduce the overall cost of living in Guernsey.

The Guernsey economy, particularly in the current economic climate, needs to continue to be competitive. It needs to ensure that key services which underpin our economic success continue to be sustainable at the quality that is required and at prices that are reasonable, affordable and value for money.

The Office of Utility Regulation

Annual Report 2006

Efficiently provided utility services are a key component in helping to deliver the growth that is now required. Low cost utility services reduce the cost of doing business in Guernsey and it is important that a continuing focus is maintained on the cost to consumers of these essential services.

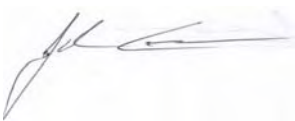
A significant part of our work in 2006 involved assessing the further scope for improved, efficient, cost-effective delivery of services from Guernsey Post and Guernsey Electricity. Our reviews of both companies identified areas where further substantial efficiencies should be made with the benefits of those savings being passed on to consumers through smaller tariff increases.

For the OUR to continue to be effective we must also constantly assess how we work and ensure that we target our focus on areas that will deliver most benefit. As a small organisation we must seek to be efficient in how we perform our role and target our work effectively. We must also ensure that we continue to adopt an approach to regulation that is appropriate to Guernsey. As a result, and building on the work achieved to date, the OUR has significantly reduced the licence fee to be paid by the utility companies for 2007 and 2008.

The cost of the OUR remains an important consideration for me as Director General. The OUR has established an Audit, Risk and Remuneration Committee and it met on a number of occasions in 2006. The Committee is an important part of the OUR's corporate governance and its report on its activities is included for the first time in this annual report.

Independent assessment and verification of the steps the OUR is taking to ensure we continue to exercise sensible stewardship of licence fees which fund the Office is critically important. I wish to record my personal thanks for the work, assistance and advice which the Committee has provided to the OUR and I look forward to continuing to work with them to build on this going forward.

Looking to the future there are interesting challenges ahead for all three utility sectors. Increasing competition in the telecoms market, significant changes to the postal market in the UK which may have implications for Guernsey, and the increasing focus on climate change presents both challenges and opportunities for Guernsey Electricity and its consumers. Continuing to ensure that consumers' interests are at the forefront of our minds as the regulatory environment evolves is critical in ensuring that our work results in benefits for the good of the Bailiwick as a whole and individual consumers.



John Curran
Director General

The Office of Utility Regulation

Annual Report 2006

The Year In Brief



January 2006:

- Consultation paper published on changes to the procedure for charging fees for telecommunications licences;
- Information notice and direction issued that the maximum resale price of electricity in Guernsey will increase;

February 2006:

- Report published on the consultation of the competition for a second 3G mobile telecommunications licence; 3G licence competition commences;
- Draft Decision issued on wholesale broadband pricing;
- Consultation paper issued on reviewing Guernsey Post's Universal Service Obligation; Public meeting hosted by Postwatch Guernsey;
- Publication of consultation document Statement of Opportunity by Guernsey Electricity Ltd, giving an overview of the electrical system in Guernsey;

April 2006:

- Draft decision issued on Guernsey Post's Bulk Mail Tariff changes;
- Findings of dispute between C&W Guernsey and Wave Telecom published and direction to C&WG issued;
- Decision notice published on licence fees for Telecommunications Operators licensed by the OUR;
- Report issued on the consultation reviewing Guernsey Post's Universal Service Obligation;
- Efficiency Review of Guernsey Electricity commences;
- OUR cuts licence fees to all sectors by 30%;

May 2006:

- Decision notice published on Guernsey Post's Bulk Mail Tariff changes;
- Final decision issued on investigation into Wholesale Broadband pricing;
- National Audit Office publishes its report into review of Commercialisation and Regulation in the States of Guernsey;

The Office of Utility Regulation Annual Report 2006



The Year in Brief

July 2006:

- OUR Audit Risk and Remuneration Committee formally established;
- Independent Expert Panel on Guernsey Electricity reports on approach to setting rate of return for the company;

August 2006:

- Consultation paper issued on Mobile Termination Rates;
- Efficiency Review of Guernsey Post commences;

September 2006:

- Consultation paper issued on Guernsey Post's proposed Tariff changes;
- Consultation paper issued on reviewing of Guernsey Electricity's price control;
- Second 3G mobile licence awarded to Guernsey Airtel. C&W Guernsey launches appeal against OUR decision to reject its application for a 3G licence;

November 2006:

- Draft decision and report published on the consultation of Guernsey Post's proposed Tariff changes;

December 2006:

- Mobile Termination Rates draft decision paper published;
- Draft decision published on Guernsey Electricity's Price Control;
- Decision notice issued on Guernsey Post's proposed Tariff changes;

The Office of Utility Regulation

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The Guernsey Regulatory Environment

The States of Guernsey sets out the regulatory framework for telecommunications, post and electricity in various Laws and Orders that were made in 2001 and 2002. The States has also issued a number of Directions to the Director General of Utility Regulation that develop States policy in more detail. The OUR, which was established in 2001, is charged with implementing that policy and regulating in the best interests of the Bailiwick.

Legislation

The principal piece of regulatory legislation is the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, which establishes the Office of Utility Regulation (OUR), sets out the governing principles of the Office and allows the States to assign further functions to the Office over time. Three other key laws are:

- The Telecommunications (Bailiwick of Guernsey) Law 2001;
- The Post Office (Bailiwick of Guernsey) Law 2001; and
- The Electricity (Guernsey) Law, 2001.

Each law sets out in more detail the powers and functions of the Director General in the relevant sector. Secondary legislation has been enacted by the States on a number of issues including commencement ordinances for each of the laws and the exclusion of liability ordinance.

Where empowered to do so, the Director General has also introduced regulations and orders. Along with directions, decisions and the large body of published documentation on the OUR website these record the implementation of the legislative and policy framework for regulation of utilities in Guernsey. Texts of all relevant legislation are available from the OUR website at www.regutil.gg.

The Office of Utility Regulation

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The Guernsey Regulatory Environment

States Directions

The Regulation Law provides that the States of Guernsey may give States Directions to the Director General on certain specific issues in each of the sectors. These include directions on:

- The identity of the first licensee in each sector to be granted a licence with a universal service obligation;
- The scope of a universal service or minimum level of service that all customers in the Bailiwick must receive;
- Any special or exclusive rights that should be granted to any licensee in any of the sectors; and
- Any requirements on licensees that might be needed for Guernsey to comply with any of its international obligations.

The States debated and agreed policy directions in relation to all three sectors in 2001. The full text of the directions that were in place in 2006 is included in Annex A to this report, in accordance with Section 8 of the Regulation Law.

The Office of Utility Regulation

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About the OUR

The OUR was set up in October 2001 to regulate the three sectors of electricity, post and telecommunications independently from government and the players in the market in line with States policy and the provisions in the Laws.

The Regulatory Laws require the Director General to be independent, fair and impartial in carrying out his functions and to do so in a manner that is timely, transparent, objective and consistent with States policy directions.

The OUR Team:

John Curran, Director General

John was first appointed by the States as Director General of Utility Regulation in February 2005 and was re-appointed as Director General in May 2006. He previously worked with the OUR when the office was established in 2001. After a period as a regulatory advisor with Australian telecoms incumbent Telstra John returned to the OUR in April 2003 as Director of Regulation.

John has a strong background in regulation. Before joining the OUR he worked for six years in communications regulation in Ireland. He began his career in the Irish Civil Service upon graduating from the Galway Institute of Technology.



Jon Buckland, Director of Policy

Jon joined the OUR in October 2001 shortly after the Office was established. Jon has lead responsibility for the regulatory work programme in the postal sector, developing quality of service standards and setting postal price controls as well as supporting work in the telecoms and electricity sectors.

Previously Jon was a Strategy and Economics Manager at the Independent Television Commission (ITC) and previously worked for a number of consultancies specialising in environmental economics. Jon has a BSc in Economics and Politics from the University of Bath and an MBA from the University of Warwick.



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Michael Byrne, Director of Regulation

Michael joined the OUR in June 2005 as Director of Regulation. Michael has led the OUR's work on regulating Guernsey Electricity as well as supporting the OUR's work in the postal and telecommunications sectors, particularly in broadband/NGN.

Prior to joining the OUR, Michael was head of Retail Competition at Ofgem in the UK. He led case investigations and reviews within the domestic and non-domestic energy sectors. He has worked in commercial television regulation and as a consultant, specialising in the dairy manufacturing industry. He has a BSc Honours degree in Mathematics, Statistics and Economics from the University of Natal. He also has a post-graduate diploma in Competition Policy and an MBA from the University of Warwick.



Rosie Allsopp, Office Manager/Case Officer

Rosie joined the OUR team in January 2007. She manages the office and provides administrative support to all the team members. In addition to this, she is a case officer for dispute resolution.

Rosie was educated locally at the Grammar School and was formerly a journalist with the Guernsey Press for more than seven years where she was deputy news editor and business editor and developed a strong interest in local politics and business. Rosie studied for a post-graduate diploma in journalism at the Press Association-affiliated Editorial Centre and is currently studying for a Degree in Business Studies.



Pui Jee Lai

Pui Jee joined the OUR at the end of June 2006 after she was awarded the OUR's first student bursary. As part of the bursary she works in the Office during her summer holidays and will become a full-time employee when she graduates. Pui Jee assists the whole team at the OUR across a spectrum of projects.

Pui Jee was born in Guernsey and educated at The Ladies College. She is currently in her third year at the University of Nottingham where she is reading Management with Chinese Studies.



The Office of Utility Regulation

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Consultants and Communication

It is OUR policy to operate with a small core team of **professional staff** and utilise expert consultants as needed on specific projects. This ensures that the Office works efficiently and effectively and keeps its skills and expertise up to date with knowledge transfer from experts in their fields.

During 2006, the following consultants and **external specialists** worked with the OUR on a range of specific projects, as well as providing general support for the OUR work programme:

- **Brockley Consulting Ltd** provided assistance in the review of Guernsey Post Ltd and Guernsey Electricity Ltd's price control;
- **Direct Input Associates** provided PR assistance;
- **Power Planning Associates** provided assistance in the Efficiency Review of Guernsey Electricity;
- **Frontier Economics Ltd** assisted the OUR in its work on reviewing C&WG Leased Line charges;
- **GOS Consulting Ltd** advised on a wide range of telecommunication projects from Broadband pricing to the 3G mobile competition; and
- OUR's legal advice during 2006 was provided by **AO Hall** and **Landwell Solicitors**.

OUR Communication

The OUR operates in a transparent and open way, and seeks to consult with as wide a range of stakeholders as possible on all key decisions. The OUR website (www.regutil.gg) is used as a means of communicating with the operators within the regulated industries and with interested members of the public on a fair and open basis. All consultation documents are published on the site as well as being made available in hard copy on request and responses, where not confidential, are also made available. The OUR publishes all decisions with reasons and a commentary on the views received.

The Office of Utility Regulation

Annual Report 2006



Electricity: Activity Report

Overview

2006 saw detailed work on a further price control for Guernsey Electricity Limited (GEL) which looked to build upon the initial price control put in place in December 2005. Considerable dialogue was held with the various stakeholders during 2006 including Guernsey Electricity, The Treasury & Resources Department and The Commerce & Employment Department. The OUR was assisted in this work by an **Independent Expert Panel** set up by the Director General.

The Director General is grateful for the input of all parties to ensure the electricity prices are kept as low as is possible for the next four years.

Activity Report

Price Control

The work on a longer term price control for GEL dominated the electricity-related activities of the OUR in 2006. Following the debate on the issues raised from the previous price control decision in December 2005, the OUR undertook a detailed review of key principles associated with regulating GEL.

Central to this work was determining what return GEL, which has all future capital expenditure pre-funded through a levy on tariffs (the “Save to Spend” policy), should be allowed to have which would be fair to the company and fair to consumers. The other key work stream in setting a price control for GEL was reviewing how efficient the company is. As a regulator, one wants to ensure that consumers – particularly where their service is provided by a monopoly – are only asked to pay through their tariffs for an efficiently provided service.

In April 2006 the OUR, with its expert advisors Power Planning Associates, commenced an **efficiency review of GEL’s generation business**. This involved gaining a detailed understanding of how GEL operates the fleet of generation capacity available to it, including the interconnector with France to ensure its generation costs are as efficient as can reasonably be expected.

Through on-going dialogue and the consultation process, the OUR concluded that there was **scope for further efficiencies within GEL’s generation business**. The DG has taken account of such savings when framing the wider price control for the company.

The Office of Utility Regulation

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The other main feature of the price control work was the review of what level of return GEL should be entitled to for its business. The DG established an **Independent Expert Panel** comprising very high calibre experts in regulation. The panel comprised Mr Chris Bolt, Chairman, Office of Rail Regulation; Sir Ian Byatt, Chairman, Water Commission for Scotland; and Prof. David Newbery, Cambridge.

The panel undertook interviews with all stakeholders, including GEL, The Treasury & Resources Department, The Commerce & Employment Department and Guernsey Gas before producing an initial position paper. The panel finalised its report in July 2006 which provided a significant contribution to the DG's further consideration of this issue. The result was that **two separate rates of return were introduced for GEL's asset base**. On the vast bulk of its assets, the Panel concluded that a nominal rate of return is all that should be allowed. For new assets since commercialisation, a more commercial rate of return is appropriate.

In September, following detailed work on a **new price control for GEL**, the OUR published a consultation paper (**OUR 06/17**) which set out the Director General's proposals for the future regulation of GEL's prices. This was followed in December by a draft decision on the proposed price control (**OUR 06/20**) proposing a price control until March 2011. The price control work concluded in February 2007 which will see prices increase by no more than 14.8% between now and 2011 and will require GEL to cut costs in its generation business.

Other Work Streams

Other areas of work included contributing to the work of the **Energy Policy Steering Group's** work into the future generation needs of the Island. The OUR also eased GEL's requirements to produce its Statement of Opportunity (**OUR 06/07**). In 2006 the OUR announced it was **cutting GEL's licence fees by 33%** for 2007 and 2008.

The Office of Utility Regulation

Annual Report 2006

Post: Activity Report



Overview

As in previous years the OUR in 2006 focused its attention on quality of service and price in the postal sector with a review of the Bailiwick's Universal Service Obligation ("USO") which was set by the States in September 2001 and dealing with two price controls. In addition Guernsey Post ("GPL") continues to monitor its quality of service against the targets set by the OUR.

The OUR continues to deal with customer complaints where these occur and is grateful for the assistance and expertise provided by **Trading Standards Service** at the Commerce & Employment Department for its role in resolving formal complaints.

Throughout the year the Director General has met regularly with **Postwatch Guernsey** and he is grateful for the efforts and contributions to the regulatory process by this consumer representative body, in particular on the USO Review, whose members volunteer their time for the interests of consumers within the Bailiwick.

Activity Report

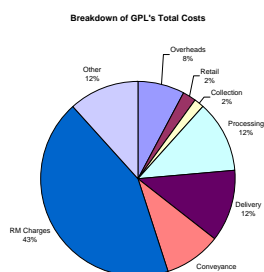
Universal Service Obligation

In February the OUR published a consultation paper (**OUR 06/06**) on the scope of the Bailiwick's postal USO. Since commercialisation in 2001, GPL had an obligation to provide customers within the Bailiwick with a universal postal service providing a uniform, low-cost service on letters and parcels up to 20Kg posted in the Bailiwick. This requirement is set by the States in the form of a Direction to the OUR.

The Director General considered that a review was appropriate at this time as further tariff increases were proposed by GPL. The Director General wished to ensure that postal users had a say in what level of service they were prepared to pay for before any future tariff increases were considered. The proposed tariff increases were predominantly driven by increased charges levied by Royal Mail.

The Office of Utility Regulation

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To stimulate debate and consideration of the issues the OUR presented a number of options where changes might be made to the Bailiwick's USO. The consultation commenced with a public meeting hosted by Postwatch Guernsey in February 2006. In response to the consultation the OUR received **25 submissions** to the consultation including a petition signed by over 5,000 people.

Upon consideration of these responses the Director General submitted a report (**OUR 06/11**) to the Commerce & Employment Department with recommendations for certain changes that might be considered in the Bailiwick's postal USO.

The Commerce & Employment Department, in July 2006, **decided against recommending any changes to the USO** at this stage but to keep the situation under review. The Director General reflected this decision in the tariff application from GPL.

Price Control for Bulk Mail Postal Tariffs

In December 2005 the Director General completed the first part of his review of GPL's one year price control and in April 2006 he published a draft decision (**OUR 06/08**) for the Bulk Mail sector's tariffs. Following the consideration of the 11 responses to the draft decision the Director General published his final decision (**OUR 06/12**) in May with new tariffs coming into effect on 1st August 2006.

In arriving at the final decision the Director General looked to achieve a balance between the **financial viability of the Bulk Mail sector and of GPL itself** as GPL needs to ensure that it remains financially sustainable to meet the islands' needs now and in the future. The DG is very aware of the importance of the Bulk Mail sector not just to Guernsey Post but to the wider economy through the diversity of business it provides. Ensuring that Guernsey continues to meet the needs of such postal users is very important.

The Office of Utility Regulation

Annual Report 2006



Three - Year Price control for Guernsey Post's Tariffs

In August 2006 GPL submitted a further tariff application to the OUR with proposals for annual price changes with effect from 1st April 2007 and for further changes through to 31st March 2010. Details of the proposals were set out in the consultation paper ([OUR 06/15](#)) which also contained the Director General's proposals on how to assess the company's proposals. A key part of the review which informed the draft decision ([OUR 06/18](#)) was the **independent efficiency review of the company's postal operations** carried out in co-operation with GPL. The Director General wishes to thank GPL's Board and Management for the constructive approach adopted in this review.

In December 2006 the Director General published his final decision ([OUR 06/21](#)) on GPL's tariffs which took into account detailed consideration of the responses to the Draft Decision. A **three year price control** has now been set for GPL to enable all postal users, in particular the Bulk Mailers, to have greater certainty on tariffs for a sustained period.

Quality of Service

GPL is required through its Postal Licence to report to the OUR on the quality of its products and services against published targets and also against its Customer Charter. In December 2006 the company published its results against its targets for the period October 2005 through to September 2006. Over this period the company **met or exceeded the targets for 23 of the 25 quality of service measures**.

It is particularly pleasing to note the continued improvements in end-to-end delivery times with 95.0% of intra-Bailiwick mail being delivered the next day (against a target of 94.0%), 82.8% of UK mail to the Bailiwick being delivered the next day (target 80.0%) and standard mail to the UK achieving next day delivery 85.1% of the time. These results continue to show how quality of service has improved since the introduction of regulatory targets in 2003/04.

In addition to these measures of end-to-end delivery times **GPL also saw further improvements in its Key Performance Indicators**. In particular complaints relating to misdeliveries were down 50% and complaints on redirections down by 35% since the targets were introduced.

GPL's licence fee for 2007 and 2008 were cut by 33% in 2006.

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Telecoms: Activity Report

Overview

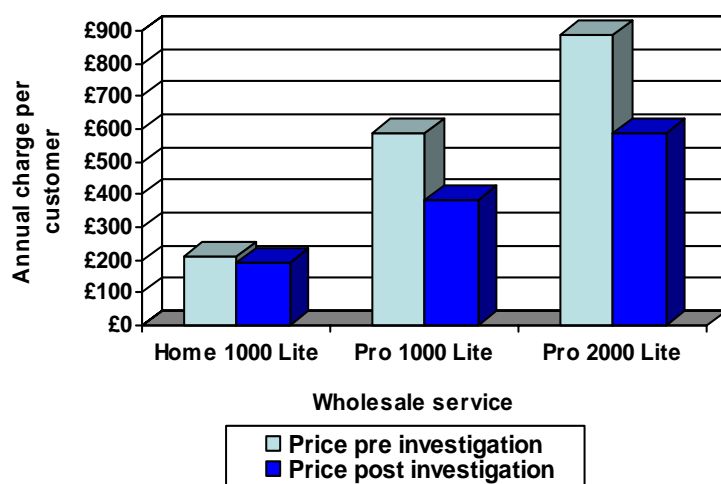
A feature of the OUR's work in the telecoms sector over 2006 has been the focus on wholesale issues. These include an investigation into the level of Cable and Wireless Guernsey's (C&WG) charges for wholesale broadband services and the charges by mobile network operators on the Island for terminating calls on their networks. The second available 3G licence was awarded to a newcomer in the Guernsey telecoms market, **Guernsey Airtel Limited**, a subsidiary of Bharti Telecom, the tenth largest mobile phone operator in the world. This was a significant event for Guernsey and is excellent news for telecoms customers. An unfortunate element of 2006 has been the **growing number of disputes** the Office has had to deal with when a number of them appear avoidable and unnecessary.

Activity Report

Broadband Charges

The level of wholesale broadband charges is a key factor in the retail price for broadband services in Guernsey. Internet Service Providers (ISPs) had indicated concerns about the level of wholesale charges made by C&WG, while the OUR's benchmarking study also highlighted a number of potential issues within the broadband market that required further examination. The OUR therefore initiated an investigation into the level of wholesale broadband

charges imposed by C&WG to establish whether these charges were reasonable.



The OUR's investigation revealed that **C&WG charges were higher than justified** and required wholesale broadband prices to be reduced. In response C&WG reduced its wholesale prices by between 9% and 35% across a range of products to achieve the overall reduction required. Over a four-year period ISPs will save around £2m as a result of this

The Office of Utility Regulation

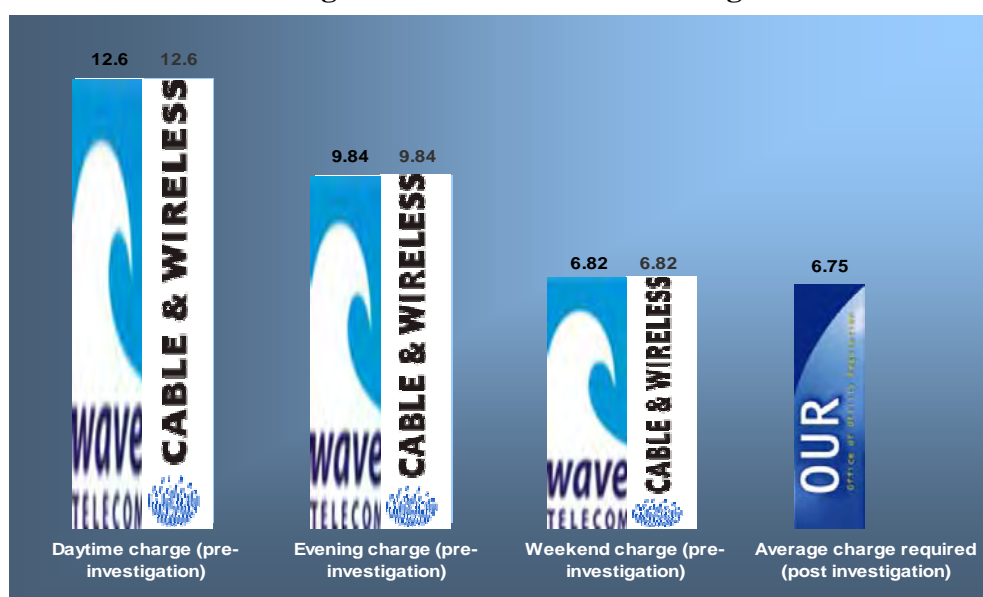
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Mobile Termination Rates

In August 2006 the OUR consulted on the level of **Mobile Termination Rates in Guernsey**. These are the charges levied by one operator to another for the cost of routing a call across the network. These charges are a significant input into the provision of retail fixed-to-mobile and mobile-to-mobile services. A noticeable feature of an independent European (IRG) study that compared these charges across different jurisdictions, was that **the level of peak charges in Guernsey were the third highest of 31 jurisdictions**. The comparison against Jersey and Malta, also island economies, was also unfavourable. Both of those regions' average mobile termination charge were lower than those charged in Guernsey.

Change in mobile termination charges



The OUR concluded that the same termination rates should apply to both 2G and 3G networks. For the next three years each mobile network operator is now required to show that its time-of-day rates are consistent with a **maximum average charge of 6.75 pence per minute**. The OUR made its decision in February 2007 and it came into effect on 1st April 2007. While this is an inter-operator charge, the Director General expects customers to see the **benefit of this significant reduction passed on to customers** by the mobile operators.

The Office of Utility Regulation

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Third Generation Mobile services

In 2006 the OUR made available a further licence for the provision of a **second 3G mobile licence** for the Bailiwick of Guernsey. In September 2006 the OUR awarded this 3G mobile licence to **Guernsey Airtel Ltd.** The licence was awarded following a ‘beauty parade’ or comparative selection process which began in February 2006. Guernsey Airtel’s interest in applying for the licence highlights the confidence there is in the local telecommunications market and how attractive Guernsey is as a market in which to invest and do business.

This decision has subsequently been appealed by the unsuccessful applicant C&WG. The OUR mounted a vigorous and successful defence of its decision.

Industry disputes

The continuing **level of industry disputes** that were lodged with the OUR over 2006 was a less welcome development in the telecommunications market. Interconnection to C&WG’s network and mast sharing were two such issues. The DG took the unusual step of making a public request to parties, in particular C&WG as the incumbent, that an unnecessarily high level of disputes reflect badly on the entire industry and that serious efforts should be made by the market players to address this.

C&WG have reaffirmed their commitment to provide other operators with access to its core network. The DG will monitor progress on this and if necessary will consider whether more firm incentives are required to ensure a level playing field in the telecoms market. The DG believes that for competition to be successful in the telecoms market **a properly functioning wholesale market is a key requirement.** It is also key to the OUR being able to row back on regulation in certain parts of the market and this is unlikely to be able to happen without confidence in how C&WG treats competing businesses to its own retail arm.

The Office of Utility Regulation

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Report of the Director General and Financial Statements for the Year Ended 31 December 2006 for Public Utilities Regulation Fund

Contents of the Financial Statements for the Year Ended 31 December 2006

Fund Information	21
Report of the Director General	22
Report of the Independent Auditors	24
Income and Expenditure Account	26
Balance Sheet	27
Notes to the Financial Statements	28
Income and Expenditure Account	31

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Public Utilities Regulation Fund

Fund Information **for the Year Ended 31 December 2006**

DIRECTOR GENERAL:

Mr J Curran

OFFICE ADDRESS:

Suites B1 & B2
Hirzel Court
St Peter Port
Guernsey
GY1 2NH

AUDITORS:

Chandlers Limited
Chartered Accountants
Anson Court
La Route des Camps
St Martin's
Guernsey

The Office of Utility Regulation

Annual Report 2006

Public Utilities Regulation Fund

Report of the Director General for the Year Ended 31 December 2006

The Director General presents his report with the financial statements of the Fund for the year ended 31 December 2006.

PRINCIPAL ACTIVITY

The principal activity of the entity in the year under review was that of a utilities regulator.

REVIEW OF BUSINESS

The results of the year and the financial position of the Fund are as shown in the annexed financial statements.

STATEMENT OF THE DIRECTOR GENERAL'S RESPONSIBILITIES

The Director General is responsible for preparing the financial statements for each financial year which give a true and fair view of the state of affairs of the Fund and of the income or deficit of the Fund for that period. In preparing those financial statements the Director General is required to:

- Select suitable accounting policies and then apply them consistently;
- Make judgements and estimates that are reasonable and prudent; and
- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Fund will continue in operation

The Director General is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Fund and to ensure that the financial statements comply with the applicable accounting standards. The Director General is also responsible for safeguarding the assets of the Fund and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Office of Utility Regulation

Annual Report 2006

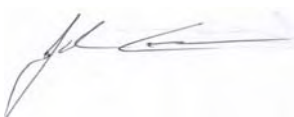
In accordance with Section 13 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the Director General shall keep all proper accounts and records in relation to those accounts and shall prepare in respect of each year a statement of account giving a true and fair view of the state of affairs of the Office of the Director General.

The Law also requires the Director General to have the accounts audited annually by auditors appointed with the approval of the Department of Commerce and Employment. The Director General, with the approval of the Department of Commerce and Employment, has appointed Chandlers Limited as the auditors to the Public Utilities Regulation Fund.

The audited accounts shall be submitted to the Department of Commerce and Employment which shall in turn submit them together with the auditors' report thereon to the States of Guernsey with the Director General's annual report.

AUDITORS

In accordance with the Resolution of the States of Deliberation passed on 1st June 2006 the Public Accounts Committee has approved the appointment of RSM Rhodes as the auditors for the Public Utilities Regulation Fund for the year ending 31st December 2007.



ON BEHALF OF THE BOARD:

Mr J Curran
Director General of Utility Regulation

Dated: 30th July 2007

The Office of Utility Regulation

Annual Report 2006

Report of the Independent Auditors to the Members of the Public Utilities Regulation Fund

We have audited the financial statements of Public Utilities Regulation Fund for the year ended 31 December 2006 on pages twenty-six to thirty. These financial statements have been prepared in accordance with the accounting policies set out therein.

This report is made solely to the Fund's members, as a body, in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. Our audit work has been undertaken so that we might state to the Fund's members those matters we are required to state to them in an auditors' 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 Fund and the Fund's members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of director and auditors

As described on page two the Fund's Director General is responsible for the preparation of financial statements in accordance with applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice).

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 Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. We also report to you if, in our opinion, the Report of the Director General is consistent with the financial statements, if the Fund has not kept proper accounting records, if we have not received all the information and explanations we require for our audit, or if information specified by law regarding Director General's remuneration and other transactions with the Fund are not disclosed.

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

The Office of Utility Regulation

Annual Report 2006

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 Director General in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Fund'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 United Kingdom Generally Accepted Accounting Practice, of the state of the Fund's affairs as at 31 December 2006 and of its surplus for the year then ended; and
- have been properly prepared in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.

In our opinion the information given in the report of the Director General is consistent with the financial statements.

Chandlers Limited

Chartered Accountants
Anson Court
La Route des Camps
St Martin's
Guernsey

Date: 30 July 2007

The Office of Utility Regulation

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Public Utilities Regulation Fund

Income and Expenditure Account for the Year Ended 31 December 2006

	Notes	2006 £	2005 £
INCOME			
Licence fees		1,223,745	949,850
Bank interest		<u>25,561</u>	<u>9,150</u>
		1,249,306	959,000
EXPENDITURE		908,593	805,867
SURPLUS FOR THE YEAR ENDED 31 DECEMBER		340,713	153,133
TRANSFER TO CONTINGENCY RESERVE	7	<u>(340,713)</u>	<u>(153,133)</u>
NET OPERATING RESULT FOR THE YEAR		<u>-</u>	<u>-</u>

The Fund has no other gains or losses for the current or preceding financial year other than those stated in the Income and Expenditure Account.

The Office of Utility Regulation

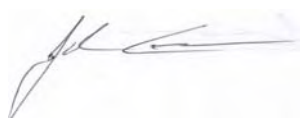
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Public Utilities Regulation Fund

Balance Sheet 31 December 2006

	Notes	£	2006 £	2005 £
FIXED ASSETS				
Tangible assets	4		12,303	14,061
CURRENT ASSETS				
Debtors				
Cash at bank and in hand	5	4,158	4,158	
		<u>642,839</u>	<u>329,551</u>	
		646,997	333,709	
CREDITORS				
Amounts falling due within one year	6	<u>75,377</u>	<u>104,560</u>	
NET CURRENT ASSETS			<u>571,620</u>	<u>229,149</u>
TOTAL ASSETS LESS CURRENT LIABILITIES			<u>583,923</u>	<u>243,210</u>
RESERVES				
Contingency Reserve	7		<u>583,923</u>	<u>243,210</u>
			<u>583,923</u>	<u>243,210</u>

The financial statements were approved on 27th July 2007 and were signed by:



.....
Mr J Curran
Director General Of Utility Regulation

The Office of Utility Regulation

Annual Report 2006

Public Utilities Regulation Fund

Notes to the Financial Statements for the Year Ended 31 December 2006

1. ACCOUNTING POLICIES

Accounting convention

The financial statements have been prepared under the historical cost convention.

Income

Income represents net invoiced licence fees and income from organisation of conferences and is accounted for on an accruals basis.

Tangible fixed assets

Depreciation is provided at the following annual rates in order to write off each asset over its estimated useful life.

Plant and machinery	- 20% on cost
Fixtures and fittings	- 20% on cost
Computer equipment	- 20% on cost

2. OPERATING PROFIT

The operating profit is stated after charging:

	2006	2005
	£	£
Depreciation—owned assets	15,524	12,005
Auditors' remuneration	<u>2,772</u>	<u>6,775</u>

3. TAXATION

Under Section 12 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 the Fund is exempt from Guernsey Income Tax.

The Office of Utility Regulation

Annual Report 2006

Public Utilities Regulation Fund

Notes to the Financial Statements for the Year Ended 31 December 2006

4. TANGIBLE FIXED ASSETS

	Plant and Machinery £	Fixtures and fittings £	Computer equipment £	Totals £
COST				
At 1 January 2006	36,076	3,675	24,102	63,853
Additions	<u>5,094</u>	<u>-</u>	<u>8,672</u>	<u>13,766</u>
At 31 December 2006	<u>41,170</u>	<u>3,675</u>	<u>32,774</u>	<u>77,619</u>
DEPRECIATION				
At 1 January 2006	31,144	2,177	16,471	49,792
Charge for year	<u>8,234</u>	<u>735</u>	<u>6,555</u>	<u>15,524</u>
At 31 December 2006	<u>39,378</u>	<u>2,912</u>	<u>23,026</u>	<u>65,316</u>
NET BOOK VALUE				
At 31 December 2006	<u>1,792</u>	<u>763</u>	<u>9,748</u>	<u>12,303</u>
At 31 December 2005	<u>4,932</u>	<u>1,498</u>	<u>7,631</u>	<u>14,061</u>

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Public Utilities Regulation Fund

Notes to the Financial Statements—continued for the Year Ended 31 December 2006

5. DEBTORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2006	2005
	£	£
Prepayments	<u>4,158</u>	<u>4,158</u>

6. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2006	2005
	£	£
Trade creditors	68,989	78,768
Deferred income	500	1,000
Accruals	<u>5,888</u>	<u>24,792</u>
	<u>75,377</u>	<u>104,560</u>

7. CONTINGENCY RESERVES

Any surpluses in the Income and Expenditure account are taken to the contingency reserve.

	£
At 1 January 2006	243,210
Movement in the year	<u>340,713</u>
At 31 December 2006	<u>583,923</u>

The Office of Utility Regulation

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Public Utilities Regulation Fund

Income and Expenditure Account for the Year Ended 31 December 2006

	2006 £	£	2005 £	£
Turnover				
Post Office Revenue	180,000		180,000	
Telecoms Revenue	863,745		589,850	
Electricity Revenue	<u>180,000</u>		<u>180,000</u>	
		1,223,745		949,850
Other Income				
Bank interest		<u>25,561</u>		<u>9,150</u>
		1,249,306		959,000
Expenditure				
General Overheads	75,669		72,117	
Auditors' Remuneration	2,500		2,500	
Salaries & Staff costs	370,994		320,855	
Consultancy fees	297,653		318,197	
Legal costs	146,213		80,153	
		<u>893,029</u>		<u>793,822</u>
		356,277		165,178
Finance costs				
Bank charges	<u>40</u>		<u>40</u>	
	356,237			165,138
Depreciation				
Office equipment	8,234		7,828	
Fixtures and fittings	735		122	
Computer equipment	<u>6,555</u>		<u>4,055</u>	
		<u>15,524</u>		<u>12,005</u>
SURPLUS		<u>340,713</u>		<u>153,133</u>

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OUR CORPORATE GOVERNANCE

The Audit, Risk and Remuneration Committee met formally on two occasions in 2006. It worked in accordance with the Terms of Reference set out in this report and carried out the following specific activities:

- The Committee arranged for a very detailed review of the internal controls of the OUR and produced a monitoring matrix to provide ongoing monitoring of the key controls;
- Produced a tender document and obtained tenders for the provision of independent internal audit of the OUR and agreed a way forward for the future;
- Reviewed the accounts for 2005 and discussed the results of the audit with the external auditors;
- Met the external auditors to confirm the nature, scope and timetable for the audit for 2006;
- Conducted a detailed risk review for the activities of the OUR and its office and produced a risk control matrix;
- Monitored and approved recruitment and remuneration of staff;
- Embarked on a project to review and recommend improvements to HR contracts and the staff handbook; and
- Targeted the production of a risk based business plan for 2008

The Committee were pleased that their reviews, meetings and plans all produced positive results and thank the Director General and his staff for their co-operation throughout the year.

On 31st March 2007 the Projet de Loi entitled “The Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007 was passed by the States of Guernsey. Section 6 of that Law introduced a new Section 13A of the 2001 Law which set out the formal establishment of the Committee the terms of which comply with the Terms of Reference already adopted by the Audit, Risk and Remuneration Committee.

The costs of the Committee were less than £10,000 in 2006.



Stephen Jones
Chairman

The Office of Utility Regulation

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OUR CORPORATE GOVERNANCE

In 2005, the OUR established an independent Audit, Risk and Remuneration Committee (ARRC) and in May 2006 the States formally agree a Resolution requiring its establishment.

The OUR complies with a very high standard of controls and the OUR's annual accounts are externally audited. The OUR's ARRC provides further independent scrutiny of the controls in place within the OUR.

The members of the ARRC are:

- Mr. Stephen Jones, Chairman
- Deputy Carla McNulty Bauer
- Ms. Jane Needham
- Mr Peter Woodward

The following sets out both the instruction to the Audit, Risk and Remuneration Committee.

OUR Audit, Risk & Remuneration Committee - Terms of Reference

The following sets out the terms of reference of the OUR's Audit, Risk & Remuneration Committee (ARRC), as agreed between the Director General and the ARRC.

Role of the Committee

The role of the ARRC will be, as part of the ongoing systematic review of the control environment and governance procedures within OUR, to;

- oversee the external and internal audit function and advise the Director General in relation to the operation and development of that function
- review and advise on the Office's risk management procedures
- review and comment on the financial accounts of the Office
- review and comment on the remuneration policy of the OUR.

Membership

The ARRC will be appointed by the Director General with the approval of the Commerce & Employment Department and will consist of not more than four people, who shall be external appointees. One of the four will be appointed by Commerce & Employment Department.

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Duties

The duties of the ARRC shall be:-

- to approve and keep under review the Charter for Internal Audit services so as to ensure that it clearly defines the purpose, authority, roles and reporting relationships for internal audit;
- To review and approve the work programme for internal audit;
- To request the inclusion in the programme of Internal Audit reports as considered appropriate;
- To assess the outcome of the internal and external audit processes having regard to findings, recommendations and management responses;
- To assess the implementation of agreed corrective actions by management having regard to follow up audits;
- Generally to foster the development of best practice in the conduct of internal audit, risk management and external reporting;
- To advise the Director General on all matters relating to risk management, internal control, governance, external financial reporting and remuneration;
- To advise on and review the membership of the ARRC as necessary.

Annual Report of the External Auditors

The ARRC will consider any report issued by the external auditors.

Meetings

ARRC meetings will be held not less than twice each calendar year.

A quorum of two will be required for each meeting. The members shall decide on the appointment of the Chairperson. The Chairperson's appointment shall expire on 31st December 2008. Thereafter the term will be for a period of two years.

The ARRC may request any person who has been contracted to carry out an internal audit assignment to attend a Committee meeting. The Director General shall attend on the invitation of the ARRC. The ARRC will also have the authority to request staff members to attend meetings if necessary.

At least once a year, the ARRC will invite the external auditor to meet them to discuss matters of mutual interest including the audit approach.

The OUR will provide such administrative support to the ARRC as it may require.

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Working Procedures

The ARRC will adopt its own working procedures.

Access

Any member of the ARRC will have right of access to the Director General and/or any staff member.

Reporting

The ARRC will formally report to the Director General and will offer such advice and recommendations as it may deem appropriate. The ARRC's activities will be recorded and reported in the Annual Report of the Director General.

The ARRC may report to any States Department or States Committee, including the Public Accounts Committee and the Scrutiny Committee.

Access to Independent Advice

The ARRC is authorised to:

- investigate any activity within its terms of reference,
- seek any information that it requires from any employee or external party, and all employees are directed to co-operate with any request made by the Committee, and
- obtain outside legal or other independent professional advice.

Amendment of Charter

This Charter may be amended or updated in joint consultation between the Director General and the ARRC. It shall be reviewed by 31st December 2008 and thereafter as required.

Internal Audit Charter

Introduction

This Charter sets out the purpose, authority and responsibilities of OUR's Internal Auditor. It is intended that internal audit assignments will be outsourced to an appropriate, qualified, third party and conducted under contract.

Purpose

The Internal Audit function is an independent appraisal function established to examine, evaluate and report on the adequacy and effectiveness of the OUR's systems of financial internal control. As such, it provides management and stakeholders with assurance over the financial management of the Office of Utility Regulation, and stewardship of the resources entrusted to it.

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Authority

Internal Audit is authorised to have:

- Unrestricted access (subject to the comments below) to all functions, records, property and personnel.
- Full and free access to staff, the Audit Committee and the Director General.
- Authority to require and receive such explanations from any employee as are necessary concerning any matter under examination
- Sufficient resources and personnel with the necessary skills to perform the internal audit plan.

Access to confidential commercial information is permitted for the purpose of carrying out an internal audit solely in respect of enabling the auditors to ascertain that the Director General has carried out his functions as provided for within sections 2 and 4 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the various sector specific laws and States Directions to the Director General. Access will not be given to confidential information unless it can be proven that its intended purpose falls within scope of the internal audit role.

Internal Audit is not authorised to perform any operational duties or initiate or approve accounting transactions.

Role and Scope

The primary responsibility for identifying and implementing an adequate system of internal control rests with the Director General. The role of internal audit is to appraise the adequacy and effectiveness of those controls.

In particular, its role is to understand the key financial risks of the organisation and to examine and evaluate the adequacy and effectiveness of the system of risk management and financial control as operated by the organisation so as to ensure that:

- the systems of financial control, and their operation in practice, are adequate and effective:
- follow-up action is taken to remedy weaknesses identified by Internal Audit:
- employees and organisation actions are in compliance with policies, standards, procedures and applicable laws and regulations: and
- the corporate governance arrangements of the organisation are appropriate to the organisation and comply with relevant requirements:

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Responsibilities and Reporting

The internal auditor will be accountable to OUR's ARRC and its work programme will be subject to the approval of the ARRC. No work should be undertaken without the prior approval of the ARRC.

All work undertaken should be planned and carried out in accordance with the Standards of Professional Audit Practice set by the Institute of Internal Auditors-UK.

On completion of an assignment, before a final report is issued, the internal auditor will communicate its findings to management and staff of the audited area for their views. These views will be considered and recorded in the final report. Copies of the final report will be provided to the Director General and ARRC.

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Annex A: States Directions; Telecommunications

Scope of Universal Service Obligation (USO)

The States resolved to give the following direction to the Director General in accordance with Section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

All users in the Bailiwick shall have available to them the services set out below at the quality specified, independently of geographical location and, in the light of local and national conditions, at an affordable price:

Access at Fixed Locations:

- *all reasonable requests for connection to the public telephone network at a fixed location and for access to publicly available telephone services at a fixed location shall be met by at least one operator;*
- *the connection provided shall be capable of allowing users to make and receive local, national and international telephone calls, facsimile communications and data communications, at data rates that are sufficient to permit Internet access;*

Directory enquiry services and directories:

- *at least one subscriber directory covering all subscribers of direct public telephone service providers shall be made available to users and shall be updated regularly and at least once a year;*
- *at least one telephone directory enquiry service covering all listed subscribers' numbers shall be made available to all users, including users of public pay telephones;*

Public Pay telephones:

- *public pay telephones shall be provided to meet the reasonable needs of users in terms of the geographical coverage, the number of telephones and the quality of services.*

Special measures for disabled users and users with special needs:

- *these provisions shall also apply to disabled users and users with special social needs, and specific measures may be taken by the Regulator to ensure this.*

Identity of First Licensee with USO

The States resolved to give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

The Director General of Utility Regulation shall issue the first licence to contain a telecommunications Universal Service Obligation to Guernsey Telecoms Limited, the company established to take over the functions of the States Telecommunications Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.

Special or Exclusive Rights

The States resolved to give the following direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

In accordance with section 3(1)(b) of that Law, the States directs the Regulator to decide the duration of any exclusive or special privilege granted to any licensee in relation to the provision of telecommunications networks and/or services with a view to ensuring that competition is introduced into all parts of the market at the earliest possible time.

The Regulator may decide on different terms for privileges granted in different markets or segments of the market. In any case, the States directs that the term of any such rights shall not exceed three years at most from the date of this Direction.

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Annex A: States Directions; Post

Universal Service Obligation

The States resolved to give the following direction to the Director General in accordance with section 3(1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

The following universal postal service shall be provided by at least one licensee throughout the Bailiwick of Guernsey at uniform and affordable prices, except in circumstances or geographical conditions that the Director General of Utility Regulation agrees are exceptional:

- *One collection from access points on six days each week;*
- *One delivery of letter mail to the home or premises of every natural or legal person in the Bailiwick (or other appropriate installations if agreed by the Director General of Utility Regulation) on six days each week including all working days;*
- *Collections shall be for all postal items up to a weight of 20Kg;*
- *Deliveries on a minimum of five working days shall be for all postal items up to a weight of 20Kg;*
- *Services for registered and insured mail.*

In providing these services, the licensee shall ensure that the density of access points and contact points shall take account of the needs of users.

“access point” shall include any post boxes or other facility provided by the Licensee for the purpose of receiving postal items for onward transmission in connection with the provision of this universal postal service.

Identity of First Licensee with a USO

The States resolved to give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

The Director General of Utility Regulation shall issue the first licence to contain a postal Universal Service Obligation to Guernsey Post Limited, the company established to take over the functions of the States Post Office Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.

Post: Special or Exclusive Rights

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Post Office Limited the exclusive right to provide postal services in the Bailiwick to the extent that such exclusive right is necessary to ensure the maintenance of the universal postal service specified by States' directions under section 3 (1)(c) of that Law; and

To request the Director General to review and revise the award of exclusive rights from time to time with a view to opening up the Bailiwick postal services market to competition, provided that any such opening up does not prejudice the continued provision of the universal postal service.

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Annex A: States Directions; Electricity

Universal Service Obligation (“Public Supply Obligation”)

The States did not make any Directions in relation to a Universal Service Obligation in the electricity markets, as it noted that the provisions of the Electricity Law adequately protected the interests of users by ensuring a Public Supply Obligation would be in place.

Identity of First Licensee with a USO

The States resolved to give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

The Director General of Utility Regulation shall issue the first licence to contain an electricity Universal Service Obligation to Guernsey Electricity Limited, once that company is established to take over the functions of the States Electricity Board.

Special or Exclusive Rights

Conveyance

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited an exclusive electricity conveyance licence in respect of the conveyance of electricity in Guernsey for a period of 10 years once that company has been formed.

Subsequently, the States resolved to give a direction to the Director General to issue an exclusive licence to Guernsey Electricity Ltd for conveyance activities subject to any exemptions granted by the Director General under section 1(2) of the Electricity (Guernsey) Law, 2001 for the period ending 31st January 2012.

Generation

The States made no resolution giving a direction to the Director General in relation to the period of exclusivity of any generation licence to be granted under the Electricity (Guernsey) Law, 2001.

Supply

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited (once that company has been formed) an exclusive electricity supply licence in respect of the supply of electricity in Guernsey for a period of one year.

The States also resolved to request the Director General to investigate the impact of the introduction of competition into the electricity supply market further and to provide a recommendation and advice to the Board of Industry on the introduction of such competition.

The States subsequently resolved to give a direction to the Director General to issue an exclusive licence to Guernsey Electricity Ltd for supply activities subject to any exemptions granted by the Director General under section 1(2) of the Electricity (Guernsey) Law, 2001 for the period ending 31st January 2012.

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Annex B: Documents published in 2006

06/01	Fees for Telecommunications Licences. Consultation document
06/02	Maximum Resale Price of Electricity in Guernsey. Information notice and document.
06/03	Competition for 3G mobile Telecommunications Licence. Report on the consultation.
06/04	Competition for 3G Mobile Telecommunications Licence. Information Memorandum.
06/05	Investigation into Wholesale Broadband Pricing
06/06	Reviewing Guernsey Post's Universal Service Obligation. Consultation Paper.
06/07	Publication of Statement of Opportunity by Guernsey Electricity Ltd. Consultation Document
06/08	Guernsey Post's Bulk Mail Tariff Changes. Draft Decision.
06/09	Investigation into Dispute between C&W Guernsey and Wave Telecom. Findings in Dispute D01/06 and Direction to C&W Guernsey Ltd.
06/10	Licence Fees for Operators licensed by the OUR. Decision Notice.
06/11	Reviewing Guernsey Post's Universal Service Obligation. Report on the Consultation.
06/12	Guernsey Post's Bulk Mail Tariff Changes. Decision Notice.
06/13	Investigation into Wholesale Broadband Pricing. Final Decision.
06/14	Mobile Termination Rates.
06/15	Guernsey Post's Proposed Tariff Changes. Consultation Document.
06/16	Extension of Mobile Termination Rates Consultation. Information Notice.

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Annex B: Documents published in 2006

06/17	Review of Guernsey Electricity Limited's Price Control. Consultation Paper.
06/18	Guernsey Post's Proposed Tariff Changes. Draft Decision and Report on the Consultation.
06/19	Mobile Termination Rates. Draft Decision Paper.
06/20	Guernsey Electricity Limited's Price Control. Draft Decision
06/21	Guernsey Post's Proposed Tariff Changes. Decision Notice.

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 31st OCTOBER, 2007

**The States resolved as follows concerning Billet d'État No XXII
dated 12th October 2007**

HOUSE COMMITTEE

REDUCTION OF VOTING AGE

I.- After consideration of the Report dated 3rd September, 2007, of the House Committee:-

1. By a majority of 30 votes to 15, that the minimum age for voting be reduced from 18 years to 16 years.
2. Unanimously to approve the Projet de Loi entitled "The Reform (Guernsey) (Amendment) Law, 2007" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council, praying for Her Royal Sanction thereto.

THE TAXATION OF REAL PROPERTY (GUERNSEY AND ALDERNEY) ORDINANCE 2007

II.- To approve the draft Ordinance entitled "The Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

THE TRAFFIC OFFENCES (FIXED PENALTIES) (AMENDMENT) ORDINANCE, 2007

III.- To approve the draft Ordinance entitled "The Traffic Offences (Fixed Penalties) (Amendment) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 1st NOVEMBER, 2007

(Meeting adjourned from 31st October 2007)

**The States further resolved as follows concerning Billet d'État No XXII
dated 12th October 2007**

POLICY COUNCIL

THE RÔLE OF THE DOUZAINES AND THEIR RELATIONSHIP WITH THE STATES

IV.- After consideration of the Report dated 24th September, 2007, of the Policy Council:-

1. TO NEGATIVE THE PROPOSITION that legislation be enacted to provide that the Guernsey Douzaine Council be constituted by law on the lines set out in appendix 1 to that Report, save that paragraphs 6 and 7 in the section of Appendix 1 headed 'Constitution' shall be deleted and the following substituted therefore:
 - "6. If the Chairman is elected from within the Council, the Douzaine whom he represents shall be entitled to elect another representative in his place.
 7. The Council shall elect a member thereof as Vice-Chairman, to act when the Chairman is absent, indisposed or otherwise unable to attend a meeting.
 8. When the Vice Chairman acts as Chairman, the Douzaine whom he represents shall be entitled, where practicable, to elect another representative in his place."
2. By a majority of more than two thirds of the Members present and voting, that the Loi relative à la Réforme des États de Délibération of 1899 and the Reform (Guernsey) Law, 1948, as amended be further amended to provide that the term of office of Douzeniers be reduced from six years to four years.
3. That legislation be enacted to provide that Douzeniers, Constables and Parish Procureurs may resign without recourse to the Royal Court.
4. That, in principle the functions set out in paragraph 18 of that Report be transferred to the Douzaines and to authorise the Policy Council and appropriate Departments of the States to enter into discussions (relating to finance, administration and generally) with the Guernsey Douzaine Council and other interested parties to that end and to note that further reports will be presented to the States following such discussions.

5. To note the Policy Council's intention to create a Working Party as set out in paragraphs 23 and 24 of that Report and that its mandate will include a review of the continued need or otherwise of bornements.
6. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

TREASURY & RESOURCES DEPARTMENT

THE INCOME TAX (GUERNSEY) (EMPLOYEES TAX INSTALMENT) REGULATIONS, 2007

V.- After consideration of the Report dated 11th September, 2007, of the Treasury and Resources Department:-

In pursuance of the provisions of subsection (5) of section 81A of the Income Tax (Guernsey) Law, 1975, as amended, to approve the Regulations entitled "The Income Tax (Guernsey) (Employees Tax Instalment Scheme) Regulations, 2007" made by the Treasury and Resources Department on 11th September, 2007.

PUBLIC SERVICES DEPARTMENT

ALDERNEY AIRPORT - DUES AND CHARGES 2008

VI.- After consideration of the Report dated 17th August, 2007, of the Public Services Department:-

To approve the adjustment in fees and charges for the use of Alderney Airport with effect from 1st January 2008, as outlined in Appendix 1 to that Report.

HEALTH AND SOCIAL SERVICES DEPARTMENT

GUERNSEY HEALTH AND SOCIAL SERVICES CHARITABLE TRUST

VII.- After consideration of the Report dated 24th August, 2007, of the Health and Social Services Department:-

1. To approve the formation of the Guernsey Health and Social Services Charitable Trust.
2. To approve the dissolution of the Guernsey Health Services Charitable Trust and of the Children Board amenity funds.
3. That the trustees of the Guernsey Health Services Charitable Trust be discharged of their responsibilities for this trust and that they be appointed as trustees of the Guernsey Health and Social Services Charitable Trust.

4. To transfer the Children Board amenity funds and the funds of the Guernsey Health Services Charitable Trust to the Guernsey Health and Social Services Charitable Trust.
5. That the trustees of the Children Board amenity funds be discharged of their responsibilities for the funds.
6. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

COMMERCE AND EMPLOYMENT DEPARTMENT

APPOINTMENT OF AN INDUSTRIAL DISPUTES OFFICER AND DEPUTY

VIII.- After consideration of the Report dated 27th August, 2007, of the Commerce and Employment Department:-

1. To appoint Mr Michael Allen Fooks as Industrial Disputes Officer for a period of five years with effect from 1st January 2008 and ending 31st December 2012.
2. To approve the appointment of Mrs Michele Tiffin as Deputy Industrial Disputes Officer for the same period.

COMMERCE AND EMPLOYMENT DEPARTMENT

REPORT ON THE INTRODUCTION OF MINIMUM WAGE LEGISLATION IN GUERNSEY

IX.- After consideration of the Report dated 28th August, 2007, of the Commerce and Employment Department:-

1. To approve the proposals for minimum wage legislation as set out in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOME DEPARTMENT

REVIEW OF GAMBLING LEGISLATION

X.- After consideration of the Report dated 29th August, 2007, of the Home Department:-

1. To approve the Department's proposals as set out in that Report.

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

COMMERCE AND EMPLOYMENT DEPARTMENT

REVISION OF COMPANIES LAW – SUPPLEMENTARY REPORT

XII.- After consideration of the Report dated 6th September, 2007, of the Commerce and Employment Department:-

1. To approve the further proposals for the revision of Companies Law as set out in section 3 of that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

COMMERCE AND EMPLOYMENT DEPARTMENT

COMPANY REGISTRY

XIII.- After consideration of the Report dated 12th September, 2007, of the Commerce and Employment Department:-

1. To approve the establishment of a Company Registry as set out in that Report.
2. That with effect from 1st January 2008 the Document Duty on the filing of an Annual Return of a limited liability company registered in Guernsey shall be £250.
3. To approve the fitting out of the Company Registry office at a total cost not to exceed £350,000 and to authorise the Treasury and Resources Department to loan the Commerce and Employment Department (Company Registry) such sum, repayable over 10 years with interest charged at the States Treasury rate.
4. To approve the provision of an Information Technology system as set out in this Report at a total cost not to exceed £600,000 and to authorise the Treasury and Resources Department to loan the Commerce and Employment Department (Company Registry) such sum, repayable over 5 years with interest charged at the States Treasury rate.
5. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 2nd NOVEMBER, 2007

(Meeting adjourned from 1st November 2007)

**The States further resolved as follows concerning Billet d'État No XXII
dated 12th October 2007**

EDUCATION DEPARTMENT

GRANTS AND LOANS FOR STUDENTS ATTENDING COURSES OF HIGHER AND FURTHER EDUCATION OFF-ISLAND

XI.- After consideration of the Report dated 30th August, 2007, of the Education Department:-

1. TO NEGATIVE THE PROPOSITION to approve the additional funds for the Education Department's total Revenue budget, to permit the ring-fenced Higher Education Budget to be increased annually in line with demand.
2.
 - (1) To approve the introduction of the necessary enabling legislation to permit the implementation of student loans at some point in the future by amending the Education (Guernsey) Law, 1970.
 - (2) To direct the preparation of such legislation as may be necessary to give effect to their above decision.
3.
 - (1) To approve the principle of a new scheme of student contributions to tuition fees.
 - (2) To approve the establishment of a student loans scheme, as set out in that Report, but subject to paragraph 10, with the expectation that the maximum loan value will not increase in real terms for a minimum of five years.
 - (3) To note the Education Department's view that up to an additional £0.5 million per annum may be required in the future.
 - (4) To direct the Treasury and Resources Department to take account of the costs of the new scheme for funding Guernsey and Alderney students attending courses of further and higher education outside the Bailiwick when recommending to the States, Cash Limits for the Education Department – Higher and Advanced Education for 2009 and subsequent years, subject to a maximum Cash Limit of £7 million at 2006 values, maintained in real terms.
 - (5) To approve the formation of a Guernsey Student Loans Company (GSLC) as a special purpose company to administer student loans as explained in that Report.

- (6) That the Directors of the Company shall be recommended by the Board of the Education Department, shall include representatives of the Treasury and Resources Department, and that the Directors of the GSLC are approved by the Treasury and Resources Department.
 - (7) That the Education Department introduce regulations by Statutory Instrument for a student loans scheme in accordance with that Report.
 - (8) That student loan interest shall be subject to tax relief in Guernsey and this shall continue beyond the 2008 tax changes.
 - (9) That the Education Department be directed to report back to the States on the operation of the student loans scheme not later than five years after implementation in 2009 of the loans system.
 - (10) That the requirement for student funding (Student loans) shall be for a maximum of 4 years' study in any event.
4. With reference to paragraphs 4.12 and 4.13 of the Report, to direct the Policy Council to report to the States by no later than July 2008, with proposals, including (if necessary or expedient) proposals to amend the Matrimonial Causes legislation and/or Education legislation, to ensure that separated or divorced parents should contribute towards the costs of their biological children's further and higher education.

PUBLIC SECTOR REMUNERATION COMMITTEE

REVIEW OF PUBLIC SECTOR PENSION SCHEMES

XIV.- After consideration of the Report dated 30th August, 2007, of the Public Sector Remuneration Committee:-

To endorse the agreement reached with all the representative organisations on revised arrangements, appropriate for current circumstances, as set out in that Report.

PUBLIC ACCOUNTS COMMITTEE

REVIEW INTO GUERNSEY WATER

XV.- At the instance of the Chairman of the Public Accounts Committee, TO ADJOURN CONSIDERATION of this Article until the November meeting of the States.

K H TOUGH
HER MAJESTY'S GREFFIER

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 29th NOVEMBER, 2007

(Meeting adjourned from 2nd November 2007)

**The States further resolved as follows concerning Billet d'État No XXII
dated 12th October 2007**

PUBLIC ACCOUNTS COMMITTEE

REVIEW INTO GUERNSEY WATER

XV.- After consideration of the Report dated 4th September, 2007, of the Public Accounts Committee:-

1. To note the Report.
2. To direct the Public Accounts Committee to monitor and review the action taken by the Public Services Department in considering and implementing the recommendations as outlined in Section Six, Figure 4, of that Report.

**K H TOUGH
HER MAJESTY'S GREFFIER**