



BILLET D'ÉTAT

WEDNESDAY, 30th JANUARY, 2008

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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 30th JANUARY, 2008,** at 9.30am, 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
11 January 2008

PROJET DE LOI

entitled

**THE REGULATION OF FIDUCIARIES, ADMINISTRATION BUSINESSES
AND COMPANY DIRECTORS, ETC (BAILIWICK OF GUERNSEY)
(AMENDMENT) LAW, 2008**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the Projet de Loi entitled “The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) (Amendment) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

**THE BANKING SUPERVISION (BAILIWICK OF GUERNSEY)
(AMENDMENT) LAW, 2008**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the Projet de Loi entitled “The Banking Supervision (Bailiwick of Guernsey) (Amendment) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

**THE FINANCIAL SERVICES COMMISSION (ENFORCEMENT POWERS)
(BAILIWICK OF GUERNSEY) LAW, 2008**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the Projet de Loi entitled “The Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

**THE REGISTRATION OF NON-REGULATED FINANCIAL SERVICES
BUSINESSES (BAILIWICK OF GUERNSEY) LAW, 2008**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the Projet de Loi entitled “The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**THE FINANCIAL SERVICES COMMISSION (SITE VISITS)
(BAILIWICK OF GUERNSEY) ORDINANCE, 2008**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Financial Services Commission (Site Visits) (Bailiwick of Guernsey) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

THE MIGRATION OF COMPANIES (AMENDMENT) ORDINANCE, 2008

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled “The Migration of Companies (Amendment) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

**THE AMALGAMATION OF COMPANIES
(AMENDMENT) ORDINANCE, 2008**

The States are asked to decide:-

VII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Amalgamation of Companies (Amendment) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

THE PROTECTED CELL COMPANIES (AMENDMENT) ORDINANCE, 2008

The States are asked to decide:-

VIII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Protected Cell Companies (Amendment) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

THE INCORPORATED CELL COMPANIES (AMENDMENT) ORDINANCE, 2008

The States are asked to decide:-

IX.- Whether they are of the opinion to approve the draft Ordinance entitled “The Incorporated Cell Companies (Amendment) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

PROJET DE LOI

entitled

THE COMPANIES (GUERNSEY) LAW, 2008

The States are asked to decide:-

X.- Whether they are of the opinion to approve the Projet de Loi entitled “The Companies (Guernsey) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

THE CHILDREN (GUERNSEY AND ALDERNEY) LAW, 2008

The States are asked to decide:-

XI.- Whether they are of the opinion to approve the Projet de Loi entitled “The Children (Guernsey and Alderney) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

**THE CRIMINAL JUSTICE (CHILDREN AND JUVENILE COURT REFORM)
(BAILIWICK OF GUERNSEY) LAW, 2008**

The States are asked to decide:-

XII.- Whether they are of the opinion to approve the Projet de Loi entitled “The Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**STATES TREASURER (TRANSFER OF FUNCTIONS)
(GUERNSEY) ORDINANCE, 2008**

The States are asked to decide:-

XIII.- Whether they are of the opinion to approve the draft Ordinance entitled “States Treasurer (Transfer of Functions) (Guernsey) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

POLICY COUNCIL

APPOINTMENT OF CHAIRMAN AND ONE ORDINARY MEMBER OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

Executive Summary

This report proposes the re-election of Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission and the election of Mr Alexander Ferguson Rodger as an ordinary member of the Commission.

Report

1. The Chairman of the Commission must be elected annually by the States, from amongst the ordinary members, having been nominated by the Policy Council. The Council is pleased to re-nominate Advocate Peter Harwood as Chairman of the Commission for a further year from 2nd February, 2008 until 1st February, 2009. Advocate Harwood has been an ordinary member of the Commission since 2004 and Chairman since February 2006.
2. Mr Mel Carvill has been an ordinary member of the Guernsey Financial Services Commission since 1999. He is not seeking re-election having served for three full terms. The Policy Council wishes to place on record its appreciation of his service during that period.
3. The Policy Council proposes that Mr Alex Rodger be elected as a commissioner for a three year term commencing on 1st February, 2008. Mr Rodger's curriculum vitæ is appended.

Recommendation

The Policy Council recommends the States to:

1. re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year from 2nd February, 2008;
2. elect Mr Alexander Ferguson Rodger as an ordinary member of the Guernsey Financial Services Commission for three years commencing 2nd February, 2008.

M W Torode
Chief Minister

17th December 2007

APPENDIX**ALEXANDER FERGUSON RODGER MCIBS**

Date of Birth 15th March 1950

Professional Qualification Member of Chartered Institute of Bankers in Scotland

Employment Over 40 years service with the RBS Group including:
 Senior posts in Relationship Management and Credit Control in
 London and New York
 1996 – Executive Director of RBS International
 2002 – Managing director of RBS International Securities Group
 2002 – Managing director of RBS International Corporate
 Banking Division

Non – Executive Positions

Director, Cable & Wireless Guernsey Limited
 Chairman, Wilton Row Investments Limited (a Jersey registered
 closed-ended investment vehicle investing in asset backed
 securities)
 Business/Strategy adviser to Collas Day

Other Member, Institute of Directors

The States are asked to decide:-

XIV.- Whether, after consideration of the Report dated 17th December, 2007, of the Policy Council, they are of the opinion:-

1. To re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February, 2008.
2. To elect Mr Alexander Ferguson Rodger as an ordinary member of the Guernsey Financial Services Commission for three years commencing 2nd February, 2008.

TREASURY AND RESOURCES DEPARTMENT

ALDERNEY COMMERCIAL QUAY

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

11th December 2007

Dear Sir

Executive Summary

The purpose of this report is to seek States approval for the release of an additional £2million from the Capital Reserve to fund the urgent renovation of the Alderney Commercial Quay (a sum of £4million has already been approved in January 2005). The need for this additional funding was included in the Department's report on Capital Prioritisation and the total sum of £6million approved in principle.

The overall cost of the project is now estimated to be £9.5million which includes ancillary costs for harbour infrastructure works and quay resurfacing. The States of Alderney have agreed to fund all expenditure in excess of £6million from Alderney Gambling Commission reserves and, if necessary, other sources of capital income.

Background

In January 2005 the States approved a transfer from the Capital Reserve of up to £4million to fund the renovation of the Commercial Quay which is a vital lifeline for Alderney. The Treasury and Resources Department was authorised to approve the acceptance of all tenders in connection with this project.

All of the tenders received for this work were significantly in excess of the sum approved and the States were advised, as part of the Capital Prioritisation debate in October 2006, that it was likely that additional funding would be required for this project.

The Department was naturally concerned at the increase in the cost of this project and in conjunction with the States of Alderney appointed a consultant to review the Alderney harbour master plan of which the Commercial Quay project was part. The review considered the design assumptions made, to establish if a project with a reduced scope could still satisfy Alderney's needs.

This independent review, undertaken by Halcrow Group Ltd, concluded that it was not feasible to reduce the scope and that the cost of the project represented market prices obtained with the original tenders.

Current position

Since the original report to the States on this matter the condition of the quay has continued to deteriorate. The States of Alderney have stated that this project is their number one capital priority and it is essential that it proceeds without further delay.

Following the review undertaken by Halcrow, the Alderney authorities have been negotiating a revised sum for the work with Geomarine, the preferred tenderer, and the total cost is not expected to exceed £9.5million (at the time of writing discussions are ongoing). This sum includes ancillary works to the harbour infrastructure and the necessary resurfacing of the quay together with the cost of consultants fees incurred to date and up to completion of the project and also a contingency sum.

The Treasury and Resources Department has met with the Alderney authorities to discuss the funding of the shortfall expected to be in the region of £3.5million.

The States of Alderney has significant sums available from Alderney Gambling Control Commission surpluses to undertake capital projects. At the end of 2007 it is estimated that the balance will be £2.6million with a further £1.3million becoming available at the end of 2008. In addition Conge and other duties levied by the States of Alderney on property sales in the Island (currently about £450,000 per annum) are treated as capital income and available for funding capital projects.

The States of Alderney, at its November meeting, has therefore agreed to use the Alderney Gambling Commission reserves (and if necessary Congé income) to fund all expenditure on this project in excess of the £6million 'earmarked' from the Capital Reserve by the States of Guernsey.

The Chairman of the Alderney Policy and Finance Committee has written to the Treasury and Resources Department in the following terms.

'As you are aware this project is Alderney's number one capital priority and for the reasons set out below it is essential that it proceeds without further delay. The States of Deliberation has shared the States of Alderney's view of the importance of this project, voting £4 million for it in December 2005 and categorising it as an Immediate Capital Priority in October 2006 when revising this figure to £6 million. The States of Alderney recognises that the balance of the projected total cost of £9.5 million will have to be met by the States of Alderney.'

The original structure of the Commercial Quay was constructed in the late 19th/early 20th century using concrete gravity blockwork as the construction method. At some time prior to the Second World War settlement of the lower berth led to it being reinforced with sheet steel piling for the first time.

During the Second World War the German forces constructed an extension jetty which, following the end of the war, gradually fell into disrepair and was demolished (using substantial amounts of explosives to remove the concrete foundations of the iron jetty) in 1978. At or around the time of the demolition it was noted that the sheet piling to the seaward end of the original quay was failing. Sections were peeling away from the underlying structure, necessitating a strengthening exercise. This was carried out in the early 1980s using steel sheet piles with mass concrete backfill. Although this resulted in a strong repair at the time these sheet piles are nearing the end of their reasonably expected lifespan and cannot be expected to last for many more years given normal corrosion levels. Unfortunately, the sheet piles encasing the lower berth are not suffering normal corrosion levels – they are suffering from a condition known as Accelerated Low Water Corrosion (“ALWC”). The cause of ALWC is microbial and it leads, as the name suggests, to very rapid loss of metal, resulting initially in the failure of individual piles which causes fill material to be lost from the resulting holes. This will eventually lead to failure of the entire lower berth if left unchecked. In addition, the jagged metal protruding from failure sites is a danger to vessels using the Commercial Quay.

The Commercial Quay is Alderney’s only quay capable of providing a practical and safe berthing and discharging place for general cargo ships, passenger ferries and fuel tankers. Alderney is non-viable without it. It is essential that the Commercial Quay is returned to a sound and serviceable condition and that when committing to expenditure of this magnitude a long service life is achieved. It must also be adequate to cater for vessels likely to be serving Alderney in the foreseeable future.

In 2003 the Beckett Rankine Partnership (BRP), an experienced and highly reputable firm of marine consulting engineers with a good record of providing advice to the States of Alderney on matters relating to the harbour, were engaged to devise a scheme for the repair, renovation and modernisation of the Commercial Quay. Several options were considered and in November 2005 the chosen option was put out to tender. Only three out of seven tenders were returned. All tenders were substantially above the £4 million originally budgeted for this project. The lowest tenderer, a UK contractor, entered financial administration following the tender return, leaving the consultants to negotiate with Geomarine, the second lowest tenderer, to obtain a price closer to the original budget.

Although some reductions were achieved the projected costs were still of concern to the States of Guernsey Treasury and Resources Department. At their

request, consultants were sought, and an appointment made, for an independent peer review of the proposed design. Halcrow Group Limited carried out the review and presented their completed report, the “Commercial Quay Redevelopment – Masterplan and Development Review Final Report”, in June 2007.

The Halcrow report recommended a preferred layout which was “almost the same as the original BRP quay redevelopment arrangement (i.e. using a sheet pile wall structure)”. The £9.5 million projected cost could only be achieved if the entire scheme was constructed using the sheet pile solution, the very same material that is currently failing under Alderney exposure conditions with a projected lifespan of only thirty years or less.

After further consideration it became evident that a method utilising pre-cast concrete blocks was capable of providing the longevity required, albeit at a higher cost than the steel piling proposal. The consultants BRP discussed alternatives with Geomarine Limited, who were still the lowest tenderer for the project. A number of options were then presented to the General Services Committee along with an evaluation of each. Although the evaluations suggested that the original BRP scheme remained the lowest cost option it was clear that there was a further option (a variation of one of those evaluated) which offered a better whole life cost and durability solution.

BRP were tasked with producing a comparison (including costings) of their original scheme with the further option, each to be constructed using pre-cast reinforced concrete blocks for durability and longevity. A number of operational criteria were used in this comparison and both schemes scored well in all areas, with the BRP proposal scoring marginally higher. However, with the cost of the BRP proposal significantly increased by the use of pre-cast reinforced concrete blocks, only the alternative proposal, at £9.5 million, was affordable. BRP recommended that the States of Alderney should proceed with procurement of the alternative proposal.

The States of Alderney accepts the fact that it must contribute £3.5 million of the total cost of this project. The States of Alderney are confident that the additional funding over the Guernsey contribution can be obtained from Alderney Gambling Control Commission profits and if necessary a commitment from Congé (a tax levied only in Alderney). Reserves have already accumulated from the Alderney Gambling Control Commission profits which have been allocated to capital projects such as the Commercial Quay which will benefit the Alderney community. It further accepts that the risk of any overspend must be the States of Alderney’s and that the priority which must be given to this vital project is such that some important capital projects will not receive funding in the immediate or, in the event of a significant overspend, even longer term future.

The States of Alderney is well aware of fears that the actual cost of a project of this type may exceed the budget set for it but this budget is now based on market

testing for Alderney and the design has contractor input at an early stage to reduce the risk of buildability issues. The States of Alderney recognises that a significant overspend cannot be allowed to happen. As well as a financial contingency provision, the contract will be structured to ensure that the fundamental quay replacement components of the project are programmed for construction ahead of the ancillary quay surfacing and infrastructure works. This would allow the scope of the project to be managed if necessary, although the resultant project would inevitably be less satisfactory.

It is intended to follow current best practice in Guernsey for the management of major capital projects. A Commercial Quay Project Board has been established. The Board comprises politicians (the Chairman of the Policy and Finance Committee, the Chairman of the General Services Committee and the Chairman of the Financial Advisory Group), Civil Servants (the States Engineer, the Harbour Master and, ex officio, the Chief Executive and States Treasurer) and Mr Gordon Rankine. A representative of the Law Officers was present at the initial meeting of the Board and will continue to provide advice and assistance.

The most appropriate form of contract is already under consideration. Project risks will be identified through a risk workshop before award of the contract and managed during the project with a risk register.

The States of Alderney gave its approval for this project at its meeting held on 21 November 2007, with Geomarine Limited as the preferred tenderer and funding by the States of Alderney for the whole cost of the project over and above £6 million. Subject to States of Deliberation approval it will commence in Spring 2008. Any delay in gaining States of Deliberation approval will place the cost of this vital project beyond the reach of the States of Alderney. Without this project Alderney cannot survive as a community.

I will be grateful if you include this item in your January Billet together with appropriate propositions.'

Recommendations

The Treasury and Resources Department recommends the States:

- a) To authorise the Treasury and Resources Department to approve acceptance of all tenders in connection with this project and to approve a capital vote, not exceeding £9.5million, such sum to be charged to the capital allocation of the States of Alderney.
- b) To authorise the Treasury and Resources Department to transfer an additional sum of £2million from the Capital Reserve to the capital allocation of the States of Alderney in respect of this project.

- c) To note that the contribution from the Capital Reserve will be limited to £6million, all expenditure on this project in excess of this sum will be funded by the States of Alderney from capital income, including Alderney Gambling Control Commission reserves.

Yours faithfully

L S Trott
Minister

(NB The Policy Council supports the proposals and strongly endorses the Treasury and Resources Department's intention to be well represented on the Commercial Quay Project Board, which will oversee the project.)

The States are asked to decide:-

- XV.- Whether, after consideration of the Report dated 11th December, 2007 of the Treasury and Resources Department, they are of the opinion:-
1. To authorise the Treasury and Resources Department to approve acceptance of all tenders in connection with this project and to approve a capital vote, not exceeding £9.5million, such sum to be charged to the capital allocation of the States of Alderney.
 2. To authorise the Treasury and Resources Department to transfer an additional sum of £2million from the Capital Reserve to the capital allocation of the States of Alderney in respect of this project.
 3. To note that the contribution from the Capital Reserve will be limited to £6million, all expenditure on this project in excess of this sum will be funded by the States of Alderney from capital income, including Alderney Gambling Control Commission reserves.

HOME DEPARTMENT

REVIEW OF PRISON ADMINISTRATION (GUERNSEY) LAW, 1949 AND ORDINANCE, 1998, AS AMENDED

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

22nd November 2007

Dear Sir

1. Executive Summary

The purpose of this report is to seek States approval for the current prison legislation, namely the Prison Administration (Guernsey) Law, 1949 and Ordinance, 1998, as amended, to be redrafted to provide a suitably robust statutory framework for the operation of Guernsey Prison but allow the Department and the Prison Governor to respond in a more timely manner to changes.

The Department proposes that the existing legislation be repealed and new enabling legislation be introduced, which will address the purpose of imprisonment, the Department's duties in respect of Guernsey Prison and powers to legislate on prison matters by way of Ordinance and Regulation. Matters of prison administration, which require public and/or political scrutiny will, as at present, be provided for by Ordinance. However, it is proposed that matters which are operational, to ensure that the prison provides a fair, safe and effective régime to achieve its purpose, should be prescribed by Regulations made by the Department, in consultation with the Prison Governor and Her Majesty's Procureur.

Further, the Department anticipates that the proposed approach will enable Guernsey Prison and the Department to respond more quickly and more flexibly to changes in the prison population, both in terms of the number and the categories of prisoners, and to changes in best practice in prison management and administration.

Finally, the Department believes that its proposals will ensure that best use is made of its resources, including those of Guernsey Prison, and those of Her Majesty's Procureur in respect of the preparation and amendment of legislation.

2. Background

The current legislative régime was established under the Prison Administration (Guernsey) Law, 1949 and an associated Ordinance which has provided for the day-to-

day operation of the prison. The Ordinance has variously been amended to respond to changes in prison best practice and the nature and size of the Guernsey prison. The most recent review of the Ordinance was undertaken in 1998.

The number of prisoners held in Guernsey Prison has continued to rise steadily over the past decade and, at the same time, the nature of offences for which people are being sentenced to a term of imprisonment and the lengths of such sentences has also markedly changed. The prison population now includes more non-local prisoners than ever before, many of whom have served prison sentences in mainland jails and, therefore, are perhaps “more seasoned” in attempting to challenge how and why the régime is structured and how decisions are reached in Guernsey Prison. All these changes have had a significant impact on the structure and management of prison life.

Further, the changing nature of the prison population has presented the Department and the Prison Governor and his staff with new challenges. These challenges have shown that the Ordinance does not always provide a sufficiently responsive framework to enable the Department and/or the Governor to amend their procedures and practices in a timely and proportionate manner.

The 1998 Ordinance contains a great deal of detail about how the prison operates on a day-to-day basis, but says little about how this is to be put into practice. This differs markedly from the approach followed in the UK under the Prison Rules. Whilst it is not envisaged that there should be a set of rules for just about every aspect of prison life, there would undoubtedly be benefits for the Department and the Governor and his staff if rules and/or regulations could be prepared and updated in a timely manner.

The proposals set out in this paper do not represent any deviation from the legislative framework that has been in place since 1949. The matters which will be prescribed by Law and/or by Ordinance reflect the current legislative régime. The changes will be that the detail about how the matters so prescribed will be given operational effect. That is, the proposals to introduce a third legislative tier through Departmental Regulations will contain the operational detail and parallel the use of Prison Rules in the UK.

This paper attempts to set out how, through a reworking of the 1998 Ordinance, this could be achieved while continuing to provide a statutory framework which would balance the need for political oversight against the operational demands of a very diverse prison population.

3. Guernsey Prison

The sentencing of offenders has the following objectives at its heart –

- (a) Punishment of offenders;
- (b) Reduction of crime, including its reduction by deterrent;
- (c) Reform and rehabilitation of offenders;

- (d) Protection of the public;
- (e) Making reparation by offenders to persons affected by their offences.

Clearly, these objectives are also key to the principles of imprisonment and its purpose when dealing with offenders who are sentenced to a term of imprisonment.

The Guernsey Prison serves the public by keeping in custody those committed by the courts, looking after them with humanity and helping them to lead law-abiding lives both in custody and after release. The following objectives underpin the rôle the prison fulfills, namely:

- (a) To protect the public by holding those committed by the courts in a safe, decent, and healthy environment;
- (b) To reduce crime by providing constructive regimes which address offending behaviour, improve educational and work skills and promote law-abiding behaviour in custody and after release.

It seeks to achieve the above objectives by applying the following principles:

- (a) To deal fairly, openly and humanely with prisoners and all others who come into contact with the Prison;
- (b) To encourage prisoners to address offending behaviour and respect others;
- (c) To value and support each other's contribution;
- (d) To promote equality of opportunity for all and combat discrimination wherever it occurs;
- (e) To work constructively with criminal justice agencies and other organisations;
- (f) To obtain best value from the resources available.

Since the 1998 Ordinance came into force there have been a number of amendments. The majority of amendments have arisen following judgments by the House of Lords and the European Court of Human Rights. For example, in 2002, the Ordinance was amended after the European Court of Human Rights ruled, in the case of *Ezeh and Connors v the United Kingdom*, that a Prison Governor could not, when dealing with prison adjudications, impose penalties involving loss of remission. The 2002 amendment made provision for legally qualified independent adjudicators to be appointed to consider such adjudications.

In recent years the Prison Governor has introduced a number of prison orders relating to all aspects of the régime. These prison orders have been supplemented by information booklets and sheets for prison officers, prisoners and their families. This approach has sought to give prisoners clear and unambiguous information about, for example, how the incentives and earned privileges scheme operates. Therefore all prisoners should

know that, if their behaviour falls below a certain level, they are at risk of losing certain privileges.

In the UK this approach is achieved through the use of Prison Service Instructions (“PSI”) and Prison Service Orders (“PSO”), both of which have statutory effect. The benefit of this statutory-based approach is that it leaves less room for prisoners to argue why their application for something to be granted, which falls outside the Governor’s prison order, is curtailed to truly exceptional cases. That is, they provide greater certainty for prison staff in enforcing the rule and greater clarity for the prisoners.

4. Proposed Way Forward

The current reliance on the 1998 Ordinance is somewhat cumbersome. It is anticipated that the approach set out below will provide a suitably robust statutory framework for the operation of Guernsey Prison, but allow the Department and the Prison Governor to respond in a timelier manner to changes.

For example, amendments to the 1998 Ordinance have allowed for prisoners to be subjected to mandatory drug tests (“MDTs”). However, the procedure for undertaking such tests is also set out in the Ordinance. Changing technology since MDTs were first introduced locally means that there are now a number of equally reliable but quicker and cheaper methods for both the tests and the analysis of samples taken.

However, as the Ordinance prescribed that the tests can only be made by requiring the prisoner to provide a urine sample, the Prison Governor has not been able to make use of these new testing options as they have become available without having to request an amendment to the Ordinance. The approach set out below would enable the Department and the Prison Governor to introduce new testing régimes quickly, which would undoubtedly lead to savings and/or the ability for prison staff to undertake such checks more frequently because the procedures would be less time consuming. This would clearly benefit the maintenance of good order and discipline in the prison.

Following detailed discussions between the Prison Governor, the Deputy Governor and the Department, it is proposed that the 1998 Ordinance be replaced with a new Ordinance to reflect more closely the UK approach. Locally, it is envisaged that UK Prison Rules would be introduced as Regulations (Statutory Instruments) made by the Department and Prison Orders would be issued by the Prison Governor. The Prison Orders would give operational effect to the Regulations.

In addition to the benefits referred to above, this approach would enable the Prison Governor to look to the UK when drafting Regulations and/or Prison Orders and extract those elements which are relevant and pertinent to the efficient running of Guernsey Prison. This should reduce the amount of work needed to prepare them and so enable the Department and Guernsey Prison to respond in a timely and proportionate way to changes in the prison population.

Further, the UK's Prison Rules and the various Prison Orders have been drafted with the assistance of considerable legal and drafting resources. This approach may also serve to reduce the demands the Department and Guernsey Prison might otherwise place on Her Majesty's Procureur's staff. It will also allow the Department to ensure that the locally produced Regulations and Prison Orders reflect the particular needs of Guernsey Prison.

5. Proposed Legislative Changes

(i) New Enabling Law

A new enabling law will be required setting out the following matters:

- (a) The purpose of imprisonment;
- (b) The Department's rôle in respect of Guernsey Prison;
- (c) The power of the States to legislate on prison matters by Ordinance;
- (d) The power of the Home Department to make Regulations;
- (e) The powers of the Prison Governor to make Prison Orders and the status of such Orders.

(ii) Matters to be Prescribed by Ordinance

Clearly, some aspects of the prison must be afforded political and public scrutiny before changes are made, that is, the more high level issues addressing the broad framework within which the prison operates. Therefore it is proposed that the following matters should be prescribed by Ordinance:

- (a) The classification of prisoners;
- (b) The determination of the proportion of a sentence of imprisonment or youth detention that must be served by a prisoner before he is eligible for remission;
- (c) The determination of the circumstances in which remission may be lost;
- (d) The determination of the maximum periods for the detention of untried prisoners without reference to a Court or other competent tribunal;
- (e) The determination of the maximum periods for the detention of children (aged under 18 years) without reference to a Court or other competent tribunal;
- (f) The determination of the minimum age for the detention of children;
- (g) The determination of the powers, general obligations, duties and responsibilities for prison officers;
- (h) The constitution and purpose of the Panel of Prisoner Visitors;

- (i) The determination of a system for the temporary release of prisoners;
- (j) The offences covered under the Ordinance;
- (k) Any other matter which is considered necessary for the proper administration of the Prison;

(iii) Matters to be Prescribed by Regulation

It is proposed that the Ordinance should be supplemented by a number of Regulations made by the Department. This approach would broadly mirror the UK's approach under the Prison Rules 1999 (as amended) and the Prison (Jersey) Rules 2007.

These Regulations would address the operational issues where the Department should have direct oversight. It is proposed that the following aspects of the prison régime and operation should be prescribed by Regulations:

- (a) The establishment of a system or systems for privileges;
- (b) The establishment of a régime or régimes for prisoners based on the security classification and/or age and/or gender of the prisoner;
- (c) The determination of the minimum standards of physical and mental welfare, accommodation and for maintaining contact with family, including prevention of suicide and self-harm, bullying, contact with family and friends, racial and religious matters, applications and complaints;
- (d) The determination of the minimum standards of healthcare for prisoners;
- (e) The determination of offences against prison discipline, the procedures for investigation and dealing with such offences, the penalties which can be given and the procedure of appealing such decisions;
- (f) The establishment of a system or systems for resettlement, including sentence and custody planning, offending behaviour programmes, substance misuse, public protection and resettlement and reintegration;
- (g) The establishment of a system or systems for receiving prisoners into prison and releasing prisoners from prison at the end of their sentence;
- (h) The determination of the minimum provision of access to educational, welfare and religious services by prisoners;
- (i) The establishment of a system or systems for the temporary release of prisoners and the criteria which will be considered before making a decision;
- (j) The circumstances in which prison officers may use force and the type of restraints which may be used;

- (k) The determination of a system or systems for supporting the Prison Governor in the event of a major incident, riot or other disorder or other operational reasons in the Guernsey Prison;
- (l) The determination of a system or systems for the transfer of prisoners, either as a long term or short term measure, for operational or control reasons or due to the nature of their offence or the length of their sentence;
- (m) The duties and mandate of the Panel of Prisoner Visitors;
- (n) A disciplinary code for officers;
- (o) Any other matter necessary for the structured management of prison life.

The references in the above list refer to either “a system or systems for ...” or “minimum standards for ...” seek to strike the correct balance between the Department’s political rôle in respect of the provision of a safe and secure prison which offers a constructive régime for prisoners, with the need for the Prison Governor to retain his operational independence as to how those overriding objectives are actually achieved.

(iv) Matters to be Prescribed by Prison Orders

It is envisaged that the Prison Governor would issue Prison Orders to give day-to-day effect to the above Regulations. That is, the Prison Orders would address the how, what, when, where and why issues and so inform and guide prison staff when applying the Regulations. They would also give clear and unambiguous information to prisoners and their families about how the prison is run and the standard of behaviour expected from prisoners and those visiting them.

6. Consultation with Her Majesty’s Procureur

The Department has consulted with Her Majesty’s Procureur regarding these proposals and he has replied as follows,

“In my view there are no legal impediments to the régime envisaged. The legislative framework that would be put in place as a result seems to me to strike a satisfactory balance between the requirement for public and political scrutiny of substantial changes concerning the prison and the need for flexibility in operational matters”.

7. Human Rights

Her Majesty’s Procureur has advised the Department that, in his opinion, the proposed legislation would be compliant with the provisions of the European Convention on Human Rights.

8. Resources

The Department believes that the proposals will have no impact on the Department's or the Prison's resources.

9. Conclusion

The Department recommends the States:

1. To approve the Department's proposals to repeal the Prison Administration (Guernsey) Law, 1949 and Ordinance, 1998, as amended, and replace it with new legislation as set out in this report.
2. To direct the preparation of such legislation as may be necessary to give effect to the foregoing.

Yours faithfully

G H Mahy
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:-

XVI.- Whether, after consideration of the Report dated 22nd November, 2007, of the Home Department, they are of the opinion:-

1. To approve the Home Department's proposals to repeal the Prison Administration (Guernsey) Law, 1949 and Ordinance, 1998, as amended, and replace it with new 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.

CULTURE AND LEISURE DEPARTMENT

THE FORMATION OF A GUERNSEY ARTS COMMISSION

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

27th November 2007

Dear Sir

1. Executive Summary

- 1.1 This States Report proposes the establishment of an Arts Commission aimed at achieving higher levels of participation and experience of the arts through a raised profile and greater private investment.
- 1.2 In Guernsey there is a very active, diverse and vibrant arts community with an abundance of largely voluntary organisations in fields including for example music, dance, poetry, language, theatre, literature, and visual art.
- 1.3 Given the growing interest that the arts are receiving within the community the Arts Commission would be able to coordinate and improve the perception and knowledge of the arts, making more effectively the 'case for the arts' to a wider audience.
- 1.4 The Arts Commission would also make it possible to improve the provision of funding for the arts by gaining much greater access to private sector funding and support. With improved funding for the Arts initiatives and actions would be able to be considered that are outside the current mandate.
- 1.5 The Commission would also actively, and regularly, survey the health of Guernsey's artistic, linguistic and cultural community in order to provide accurate information to the States of Guernsey.
- 1.6 This is also an era of globalisation; it is necessary to continue to define and assist the future development of the island's cultural identity. The Arts Commission would have an important role to play in that process.

2. Introduction

- 2.1 When the Culture & Leisure Department was formed in 2004 through the Machinery of Government changes its mandate included responsibility for the Arts. This it embraced with its original *Cultural Strategy* which included a separate though integral *Arts Development Strategy*.
- 2.2 The Culture & Leisure Department has worked increasingly closely with arts organisations over the last three years in order to further refine its Cultural Strategy and to increase and improve both the funding and opportunities for the arts in the Island.
- 2.3 Integral to Culture & Leisure's support for the arts was the appointment in 2005 of the island's first Arts Development Officer. This was followed in 2006 by the opening of its arts development space, the greenhouse. To date this has hosted nine projects which have included a variety of events and attracted locals and visitors for films, exhibitions, talks and workshops. In August 2007 an Arts Development Assistant was appointed to provide support for these and other initiatives being pursued.
- 2.4 It is now proposed that a structure, similar in some ways though not a carbon copy, to that of the Guernsey Sports Commission, is set up for the arts. This body would provide a solid and strong voice of opinion and information for the arts. It would also allow the full potential of a public / private partnership to be realised.
- 2.5 Events created by Culture and Leisure such as Arts Alive, Castle Nights, Art in the Concourse, Arts Week and Arts Outside have given opportunities to applaud and enjoy a wide range of talent but increased resources are needed to build on and develop these initiatives. Whilst public sector financial support for the arts has increased since 2004, it is still limited. (Per capita spend in Guernsey falls way below the UK and other European countries).
- 2.6 When looking to future generations, the arts are the most popular subject for our young people to study at University. Annual figures show a consistent level of around 15% of Guernsey undergraduates studying creative Arts & Design. With the arts' strands from the Combined Subjects added in, the percentage rises to nearly a fifth of our students studying the arts every year. Islanders are certainly talented and the Arts Commission would be a mechanism that could widen opportunities for returning students to continue to practice, partake and attend.

3. The creation of an Arts Commission

- 3.1. In looking to establish the reasons for setting up an Arts Commission it has been identified that it would meet a clear need or shortfall in both representation and particularly provision for funding for the arts that could not easily be provided by the States or generated by the arts organisations themselves.

- 3.2. The Arts Commission would create both a representative body and a provider for support to the arts, which would lie under the auspices of the States while having the flexibility and freedom accorded by its “arms length” positioning.
- 3.3. Such a Commission would be well placed to seek new sources of finance for arts initiatives, working closely with the community to progress artistic aspirations and ideals. It would also have autonomy of action, enjoying more freedom from States restraints.
- 3.4. It would also ensure that there is an independent and powerful “Voice for Arts” representing the interests of arts organisations in a wide number of areas.
- 3.5. As a body providing an overview of the arts provision, it could serve as a neutral central point to enable and facilitate cross discipline initiatives, and it would be able to take advantage, for the benefit of islanders, in a wider range of initiatives such as the *Arts Award* (equivalent to the Duke of Edinburgh Award for the arts).
- 3.6. It would also provide the context, and mechanism, to set up a working party to ensure that islanders were included in the Cultural Olympiad which is part of the London Olympics in 2012.
- 3.7. The Arts Commission would be an appropriate interface between political support for the arts and local ownership, taking a long term view by delivering programmes not projects, and being able to progress initiatives such as a public art strategy.
- 3.8. The mandate for the proposed Commission would be:

To provide a strong, identifiable voice for the arts in the community, raising public awareness and promoting the value, relevance and importance of the arts.

Its founding principles are to:

- Increase the scope and quality of support to artists
- Secure the foundation of Guernsey’s artistic development
- Create flexibility to support the new and innovative
- Create opportunities for participation in the arts
- Build a culture of co-operation with partners and the arts community

3.9 Its main objectives being:

- To promote, encourage and assist activities, whether professional or amateur, and improve the provision and accessibility of arts opportunities, venues and participation.
- To encourage initiatives and involvement by widening arts opportunities and provision for all.
- To promote Guernsey's cultural identity through the arts while also embracing other cultures.
- To undertake research to survey and assess the social and economic impact of the arts locally.
- To encourage private sector funding and to raise awareness therein of the importance of supporting the arts in Guernsey.
- To promote the value and importance of Public Art for the community.
- To place arts, culture and creativity at the heart of learning
- To support financially arts events and other cultural activities for the benefit of both locals and visitors.

4. **The proposed structure of the Arts Commission**

4.1 It is important to ensure that an appropriate legal framework for the Commission is established. The model used for the Guernsey Training Agency and the Guernsey Sports Commission is that of a Trust established under existing legislation. This is the model that is proposed to be used for the Arts Commission. The Trust would be formed with the Trustees being:

- a person appointed by the Policy Council to represent the interests of the States generally;
- a person appointed by the Culture and Leisure Department to represent the interests of the States on arts matters;
- two persons appointed by the Culture and Leisure Department to represent the interests of the arts community.

4.2 It is intended that a corporate entity, The Guernsey Arts Commission Limited by Guarantee, will be formed by the Trust with the Trustees appointing the Board of Directors of the entity, the members of which will be known as Arts Commissioners. The Trustees will have the discretion to change the make up of the Board of Directors as the work of the Commission develops and to meet changing circumstances.

- 4.3 This corporate entity will be responsible for the day to day activities of the Guernsey Arts Commission.
- 4.4 Provision would be made for the appointment of outside experts to specific projects and for observers to attend meetings of the Commission.
- 4.5 The Commissioners should be knowledgeable about the arts, from a range of backgrounds and interests, of high status in the Island and having the ability to attract co-operation and sponsorship. It is also important that there are good communication channels into the arts community to give the opportunity for the representation of interests which will ensure that the work of the Commission continues to engage and retain support from all. There will be no remuneration paid.
- 4.6 It is considered that the Commission should be headed by a Chairman who is a non-political figure, initially recommended to the Trustees by the Culture & Leisure Department.
- 4.7 The Culture and Leisure Department proposes that the process of identifying the initial Trustees and Commissioners be undertaken by a specially formed working party with all appointments to be approved by the Department and endorsed by the Policy Council on behalf of the States of Guernsey.

5. Terms of reference

- 5.1 It is proposed that the Culture and Leisure Department would delegate responsibility to the Commission for:

- Arts Development Strategy
- Arts Development initiatives
- Arts Development funding awards
- the greenhouse programme
- Public Art Strategy
- Fundraising and sponsorship
- Support for individual arts groups
- Support for events

It would be expected that the Commission would submit an appropriate annual report and audited accounts.

6. A shared vision

- 6.1 There is no doubt that the structure proposed relies on trust between the Culture and Leisure Department and the Commission. However the experience gained with the Sports Commission has proved to be a positive one for those involved. There has been a great deal of support and encouragement given both ways,

which has created a true sense of cooperation. It is strongly believed that a similar level of enthusiasm and cooperation can be carried forward for the future through the Arts Commission.

7. Resources to be applied

- 7.1 It is proposed that initially the Commission will be housed in the Guernsey Information Centre at North Esplanade. With regard to staffing it is proposed that the existing arts development staff will be seconded to the work of the Commission for an initial period. The Culture and Leisure Department and the Policy Council will review the continuation of any secondment as appropriate, particularly when any future staffing decisions are to be made.
- 7.2 No guarantees can be given about the level of continued financial support for the medium term as the level of public sector funding for future years will be dependant upon the level of States funding provided to the Culture & Leisure Department. It is proposed that the resources described below shall be provided by the Department to the Commission for its first year of operation and every effort made to maintain that level of support for the first three years of the Commission's life.

Transfer of resources

<u>Resources</u>	<u>£</u>	<u>Notes</u>
Premises	11,000	Notional market rent for use of premises (the <u>greenhouse</u> and office space within GIC)
Equipment	2,000	Notional cost applied
Utilities, Maintenance and Cleaning	8,000	Notional cost applied
Office Administration	5,000	Notional cost applied
Grants to the Arts	55,000	
Visit Guernsey Grant	50,000	Support for events
Salaries and Superannuation - Arts Development Staff	75,000	
Arts Development Funding	25,000	
Sundries (Marketing, Hire of facilities, Staging of Seminars, etc)	5,500	
<u>Total</u>	236,500	Per annum

8. The level of resources targeted to be achieved

- 8.1 It can be seen from the above that the Culture and Leisure Department's budget for Arts Development in 2007 is £236,500 inclusive of notional costs. It is intended that these resources be provided to the Commission upon its creation together with the secondment of staff.
- 8.2 Premises, services and staffing will be provided at the Culture and Leisure Department offices as appropriate on a notional cost basis.

9. Safeguards and Scrutiny

- 9.1 As is already the case with the Guernsey Sports Commission, it is important to note the elements of control that the Culture and Leisure Department will continue to exercise over the activities of the Commission. It will initially recommend to the Policy Council the appointments of the Trustees and Chairman, provide or agree a long-term strategy and objectives for the Commission to achieve and will carry out a rigorous annual review of its Business Plan. It can ultimately replace the Chairman or Commissioners if it believes that the objectives set are not being achieved.
- 9.2 There will be a legal structure in place similar to that of the Sports Commission whereby a Company Limited by Guarantee is incorporated to carry out the business activities of the Commission with its ownership being vested in trustees appointed directly by the Policy Council. The precise terms of the trust deed and the initial company articles and memorandum of association will be subject to the approval of the Law Officers.
- 9.3 Proper arrangements will be made for a suitable review panel to be provided in order to consider any appeals that may be made against the actions or decisions of the Commission.
- 9.4 It is intended that a copy of the annual report of the Commission will be published and widely circulated to interested parties including the Policy Council, the Treasury and Resources Department and Public Accounts Committee. There will also be an open Annual General Meeting held at which the activities of the Commission outlined in the annual report will be presented and discussed. The Commission will also formally consult once a year with the Arts community.
- 9.5 If the Commission should fail, if it overstretches itself, if there is a reduction in the original enthusiasm and drive or if changes in society or States funding levels so dictate then it can be wound up. The Culture and Leisure Department would then resume its role in arts development.

10. Conclusions

- 10.1 The Culture and Leisure Department believes that the proposal outlined above for the formation of a Guernsey Arts Commission addresses a number of issues with regard to the provision of support for the arts and provides a number of tangible benefits.
- 10.2 In common with all other States departments who are all under pressure to reduce budgets given the changes arising from Zero-10, the Department believes that it should look to find alternative sources of funding. The States themselves have already accepted that departments should look more closely at alternative methods of provision of their services. In this instance that is exactly what the Culture and Leisure Department has done.
- 10.3 It will be a considerable challenge to those appointed to the Commission to “deliver the goods”. The Department believes that the road ahead will be challenging but ultimately the rewards to be gained are such that it must start the process without delay.

11. Recommendations

- 11.1 The States Culture and Leisure Department recommends the States:
- a) To approve the setting up of the Guernsey Arts Commission as described in this report.
 - b) To authorise the Culture and Leisure Department to provide to the Guernsey Arts Commission by way of grant, notional transfer and/or secondment the level of resources described in this report.
 - c) To authorise the Culture and Leisure Department to determine the level of resources to be applied, from within its own resources, to the Guernsey Arts Commission for subsequent years.
 - d) To direct the Treasury and Resources Department to take due account of the above proposals, if approved, when calculating and recommending to the States the Culture and Leisure Department’s revenue expenditure limit for subsequent years.

Yours faithfully

P R Sirett
Minister

(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

XVII.- Whether, after consideration of the Report dated 27th November, 2007, of the Culture and Leisure Department, they are of the opinion:-

- 1 To approve the setting up of the Guernsey Arts Commission as described in that Report.
- 2 To authorise the Culture and Leisure Department to provide to the Guernsey Arts Commission by way of grant, notional transfer and/or secondment the level of resources described in that Report.
- 3 To authorise the Culture and Leisure Department to determine the level of resources to be applied, from within its own resources, to the Guernsey Arts Commission for subsequent years.
- 4 To direct the Treasury and Resources Department to take due account of the above proposals, if approved, when calculating and recommending to the States the Culture and Leisure Department's revenue expenditure limit for subsequent years.

HOUSING DEPARTMENT

MAISON DE QUETTEVILLE

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

14th December 2007

Dear Sir

Executive summary

Methodist Homes for the Aged (Guernsey) Ltd (MHA) is undertaking a major new project to provide a specialised residential home for people suffering from Alzheimers, to be known as Maison de Quetteville. In order to fund the new project, MHA is taking on additional bank borrowing.

MHA's previous project – Maison L'Aumone - was part-funded by an interest free loan from the States via the Housing Authority, which was secured by two bonds. Because of the existence of those bonds in favour of the States, MHA now requires consent from the States to register an additional bond in favour of its Bank securing further borrowing, which bond will rank in priority to the States' bonds.

The mandate of the Treasury and Resources Department enables it to approve the terms and conditions of grants and loans made by Departments and Committees to registered charitable bodies and similar organisations. However, in this instance, because of the terms of the original States Resolution granting the loan and the variation in security necessary to accommodate the new project, it is necessary for this matter to be placed before the States.

Both the Housing Department and the Treasury and Resources Department are satisfied that the States is adequately protected by the new security arrangements proposed.

Background

On 27 July 1988, following consideration of a policy letter from the Housing Authority (Billet d'Etat XIX), the States resolved as follows:

- "1. To authorise the payment of such sums, not exceeding in total £1,000,000, as represents fifty percent of the cost of construction and*

equipping of Project L'Aumone, to Methodist Homes for the Aged (Guernsey) Limited, on the terms and conditions set out in that Report.

2. *To vote the States Housing Authority a credit of £1,000,000 to cover the cost of the above, which sum shall be taken from that Authority's allocation for capital expenditure."*

This payment took the form of an interest free loan of £1m, repayable under certain conditions, but otherwise on a non-reducing basis, secured by two bonds:

- (i) of that amount;
- (ii) representing a financial interest, in lieu of loan interest, non-specific in amount but limited to a maximum of a further £1m, again repayable under certain circumstances.

On 12 April 1990, MHA consented to a bond for £750,000 to build what is now known as Maison L'Aumone. The States agreed to grant priority to MHA's bank in respect of its second bond but not the first, so that the current position is that the States have first priority in the sum of £1m, the Bank rank second with a bond of £750,000 and the States third securing contingent additional sums due to the States under the agreement in the event of a sale or the insolvency of MHA up to a maximum sum of £1m.

Need for change in security arrangements

During 2007, MHA announced that it would be embarking upon a major new project to provide a specialised residential home for people suffering from Alzheimers, to be known as Maison de Quetteville. The value of this project to the community has been widely acknowledged, and there is considerable public and political support for this new venture.

MHA is undertaking further bank borrowing to enable this project to proceed, and a heavily-publicised campaign to raise £1m from public donations – upon which the bank borrowing is contingent - is well-advanced.

Under the terms of the existing bonds in favour of the States, MHA now requires permission to take on additional borrowing and to register an additional bond.

Furthermore, the States is being asked to grant first priority to the Bank (Barclays Private Clients International Limited) in respect of its existing bond and an additional bond, to be secured on the existing home, Maison L'Aumone, and the property upon which the new home, Maison de Quetteville will, in the main, be constructed.

Advice from the Law Officers

Advice on these arrangements has been sought from the Law Officers of the Crown.

They have advised that, to protect the States' interest, a deed of priority should be entered into with Barclays Private Clients International Limited and MHA, in which the respective priorities of the Bank and the States are agreed in the event of either a winding up of the Company or the sale or other disposal of the properties.

In addition, prior to entering into this agreement, the Department requested and has received:

- (i) details of the actual or projected valuations of both of the properties, such that if it were necessary to enforce the bonds the States would have a reasonable prospect of recovering the monies due to it following the redemption of the Bank's loans;
- (ii) the business plan and cashflow forecasts in relation to the two homes, for the 5-year period ending August 2012;
- (iii) a letter from MHA's accountants which states that they have examined these business plans and cashflow forecasts, and are satisfied that they are both realistic and conservative.

Summary of new arrangements

Following reorganisation of the security and completion of the new development, the Bank will stand first with a bond of £4.5m plus interest, with the States second (but now secured on the whole estate including the new home), providing bond cover over property with a combined value of £10.5m (or £6m net of bank debt).

Both the Housing Department and the Treasury and Resources Department have examined the documentation referred to above, and are satisfied that the States are adequately protected by the new security arrangements.

Recommendation

The Housing Department recommends the States to approve the change in security arrangements necessitated by the development of Maison de Quetteville by Methodist Homes for the Aged (Guernsey) Ltd, as set out in this Report.

Yours faithfully

D Jones
Minister

(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

XVIII.- Whether, after consideration of the Report dated 14th December, 2007, of the Housing Department, they are of the opinion:-

To approve the change in security arrangements necessitated by the development of Maison de Quetteville by Methodist Homes for the Aged (Guernsey) Ltd, as set out in that Report.

SCRUTINY COMMITTEE

COMPLAINTS POLICIES AND APPEALS PROCEDURES UPDATE – MONITORING REPORT

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

15th November 2007

Dear Sir

1 Introduction

- 1.1 The Committee's public Review entitled "*Complaints Policies and Appeals Procedures*" (*Complaints Review*) was published in August 2005 and discussed by the States of Guernsey at its meeting of 26th October 2005 (Billet D'Etat XV 2005).
- 1.2 The Review concluded that the States did not fully grasp and encourage the opportunity to engage with the public. It found that there was a need for a culture to be developed within the States that complaints and comments from the public are to be valued, dealt with appropriately and used as a management tool. It identified the need for corporate leadership and the lack of adequate existing processes and procedures for dealing with complaints in most Departments.
- 1.3 The States resolved to note the Committee's Report and to recommend Departments to review their complaints policies and appeals procedures in response to the Report. The States further requested the Scrutiny Committee to monitor such action taken by Departments and report back when appropriate (Billet D'Etat XV 2005). In accordance with the States Resolution, as well as the *Guide to Scrutiny in Guernsey* and the commitment made in the Review Report to monitor the progress made in implementing the Review recommendations (paragraph 2.14.1 of the Review Report); the Committee has completed a Monitoring Report, as appended, which provides an update on the outcomes of the Review.
- 1.4 For ease of reference, the Executive Summary of the Monitoring Report is repeated below. All paragraph references are to the appended Monitoring Report.

2 Executive Summary

- 2.1 No tangible progress has been made by the Policy Council in developing a corporate approach to handling complaints. However, provision has been made in the Government Business Plan so that there is now a positive commitment and a high priority for achieving this in the future. (Paragraphs 4.1 - 4.2 refer).
- 2.2 There has been an encouraging commitment, to varying degrees, from seven of the ten States Departments to signing up to a positive culture for dealing with customer feedback and for progressing their individual policies and procedures to facilitate this.
- 2.3 The Health and Social Services Department, the Culture and Leisure Department, the Home Department, the Housing Department, the Commerce and Employment Department and the Environment Department now have a formal policy and procedures in place (see paragraphs 4.5 – 4.7).
- 2.4 The Treasury and Resources Department has introduced a formal policy for its operations in respect of Income Tax and the States Property Services, with plans to extend this to the Cadastre Office and Cashiers Office (see 4.8).
- 2.5 The Public Services Department has committed to introduce a formal process for only one of its sections, in respect of Guernsey Water, but had not done so by the completion of this Report (see paragraph 4.9a).
- 2.6 The Social Security Department has stated that it has no intention of introducing a formal policy and/or procedures. The Scrutiny Committee does not accept the view of the Department that a formal policy and procedures would be overly bureaucratic and unnecessary (paragraph 4.9b refers).
- 2.7 The Education Department appears to have made some moves towards introducing a documented policy and procedures, but this is unconfirmed as the Department did not respond to the Committee's requests for an update on progress (paragraph 4.10).
- 2.8 The Review Report recommended that consideration be given to staff training in dealing with complaints (see 4.11 – 4.13). The Policy Council HR Unit provides four courses that are relevant to complaints. Other Departments might be interested to learn more about the specific training programmes provided for the staff of the Health and Social Services Department and the Housing Department, to adapt for their own purposes.
- 2.9 There has been no development of the central guidance available to Departments on dealing with complaints against staff or "whistle-blowing". However, the Health and Social Services Department, the Environment Department and the Home Department have developed specific guidelines. The Committee suggests

that other Departments could usefully adapt these guidelines for their own purposes. (See paragraphs 4.14 – 4.16 on “whistle-blowing”).

- 2.10 Most Departments have a system for dealing with a customer’s complaint at the point of contact and escalating it if the customer is dissatisfied with the initial response. Departments with formal procedures have allocated expected targets for timescales in which they aim to respond to the customer (4.17 – 4.19 refer).
- 2.11 Some Departments have reported progress on making provisions for appeals, but the Review recommendation to the Policy Council to encourage the development of a corporate policy on appeals remains outstanding. (Paragraphs 4.20 – 4.27 refer).
- 2.12 The Committee considers that Departments’ consideration of the role of non-government organisations and other third parties in dealing with complaints could be developed. Limited progress has been made against this recommendation, (as reported in paragraphs 4.28 – 4.32).
- 2.13 The Committee believes that a central requirement for Departments, reflected in Level 3 of Priority 12 the GBP, is to develop a way of recording complaints and compliments and providing analysis of them to enable services to be improved. It also provides Departments with a useful indicator to assess how they are performing in their services and in providing customer satisfaction. The Committee considers that only the Housing Department, the Health and Social Services Department and the Culture and Leisure Department in respect of Beau Sejour, have been able to demonstrate an established process for learning from customer feedback (paragraphs 4.33 – 4.35 refer). The Housing Department and Health and Social Services Department have kindly provided examples of their recording of feedback, which are shown as Appendix C.
- 2.14 All Departments with formal policies and procedures have stated that they will be reviewed regularly and at intervals of no more than three years, in accordance with the Review Report recommendation (see 4.36 – 4.37).
- 2.15 There has been no progress in providing a corporate approach to making customer information on how to complain readily available. However, some individual Departments were able to demonstrate accessible and customer-friendly information on their services. The Committee felt that the Health and Social Services Department, the Housing Department and the Social Security Department were the most notable of these (See 4.38 – 4.49).
- 2.16 The Committee felt that guidance to staff on dealing with potentially litigious complaints or appeals might need to be improved and, in particular, the Treasury and Resources Department was recommended in the Review Report to produce central guidance on public liability implications. This recommendation remains outstanding (paragraph 4.50).

- 2.17 Regarding the small sample of individual complaints cases that the sub-group examined, there were some positive points identified in how the respective Departments handled them. However, there was much room for improvement. Whilst there is no such thing as an infallible system, the Committee strongly believes that the handling of these cases would have been greatly improved had the Departments in question had proper complaints policies and procedures in place and fully integrated. A summary of the aggravating factors and positive examples from the individual complaints examined is provided as Section 5 of this Report.
- 2.18 In summary, progress has been slow and most of the Departments that have introduced formal policies and procedures have done so only very recently. The Committee has been disappointed that Departments have not placed a higher priority on improving their handling of complaints and general customer feedback.
- 2.19 The Committee's monitoring of the Review Report suggests that the Report recommendations have had a positive effect in improving the provision of States services. However, the Committee considers that there is still a long way to go to demonstrate that Departments are signed up to a culture in which complaints are welcomed, valued and dealt with appropriately. The Committee trusts that its Review Report and this Monitoring Report will be of use to Departments and the Policy Council in pursuing their obligations under the Government Business Plan to improve further their handling of complaints, in order to respond more effectively to customer needs.

3 Monitoring Report Recommendations

- 3.1 The Committee's recommendations, for addressing incomplete recommended actions from the 2005 Review Report and for further improvement, are set out in Section 6 of the appended Monitoring Report and are repeated below for ease of reference.

At a corporate level, the Policy Council is recommended to:

- 1 Develop Level 4 actions under the Government Business Plan Priority 12 to take a proactive corporate lead in encouraging a culture for dealing with feedback, especially complaints;
- 2 Develop a uniform definition of a complaint, a statement of complaints policy objectives and a corporate statement of complaints policy, (as recommended in the Scrutiny Review Report entitled "*Complaints Policies and Appeals Procedures*", August 2005, 14.1.3 and 14.1.4);
- 3 Review existing policies on whistle-blowing and consider developing a corporate statement of policy as guidance to all Departments (as recommended in the Scrutiny Review Report 14.1.6);

- 4 Review provisions for the protection of employees making disclosures of malpractice regularly in the light of Departments' experience;
- 5 Develop a corporate policy on appeals (as recommended in the Scrutiny Review Report 14.1.8);
- 6 Coordinate central advice to the public on how to complain or comment about government services.

At a corporate level, the Treasury and Resources Department is recommended to:

- 7 Give priority to providing relevant information on States web sites, in association with other Departments (as per recommendation 14.2.1 of the Scrutiny Review Report);
- 8 Prepare guidelines for Departments in handling complaints which may have liability implications. These guidelines should take into account the need for dealing with such complaints in an expeditious manner, while safeguarding States' interests (as recommended in the Review Report 14.2.2).

At a departmental level, the Scrutiny Committee recommends that:

- 9 The Home Department draws up tailored procedures for its individual units following the Department's overarching policy;
- 10 The Treasury and Resources Department introduces a written policy and procedures covering the remainder of its operations;
- 11 The Public Services Department and the Social Security Department introduce a written policy and procedures covering all of their operations;
- 12 The Education Department introduces a written policy and procedures covering all of its operations, if it hasn't already done so;
- 13 The Commerce and Employment Department, Culture and Leisure Department, Education Department, Housing Department, Public Services Department, Social Security Department and the Treasury and Resources Department consider adapting the existing policies of other Departments on "whistle-blowers" to their own needs;
- 14 The Public Services Department, Social Security Department and Education Department, the Home Department, the Treasury and Resources Department in respect of its operations where it has not

already done so, Culture and Leisure Department in respect of its other operations to Beau Sejour, develop a process for recording, collating, analysing and evaluating public feedback, including complaints. The Commerce and Employment Department to extend their reporting to an analysis and review of visitor feedback.

All Departments are recommended to:

- 15 Develop Level 4 actions under the Government Business Plan Priority 12 to develop their complaints processes and procedures and give a high priority to dealing with customer feedback, especially complaints;
- 16 Develop training plans for staff including training in dealing with customer feedback and particularly complaints, if they haven't already done so;
- 17 Develop the potential roles of non-government organisations, individuals and mediators in the resolution of complaints where appropriate;
- 18 Regularly review and improve the accessibility of their complaints procedures to the public, in the distribution of leaflets and on-line. Details on how to complain should also be sent to the Citizens Advice Bureau and any other relevant outlet;
- 19 Develop specific policy guidelines and procedures for staff dealing with appeals, including clarifying legislative procedures and dealing with potentially litigious complaints, taking into account any central guidance issued by the Treasury and Resources Department;
- 20 Continue to regularly review, monitor and develop their complaints and appeals processes and procedures.

4 Recommendations to the States

The Scrutiny Committee asks the States to:

- a) Note the progress that has been made since the Scrutiny Committee's Review on "*Complaints Policies and Appeals Procedures*", August 2005, as reported in the Committee's Monitoring Report, November 2007, as appended;
- b) Direct the Policy Council to take into account the Scrutiny Committee's recommendations set out above in Section 3 of this States Report and to include appropriate actions under Priority 12 of the Government Business Plan;

- c) Direct all Departments to take into account the Scrutiny Committee's recommendations set out above in Section 3 of this States Report and to include appropriate actions in their Operational Plans for inclusion under Priority 12 of the Government Business Plan.

Yours faithfully

J A Pritchard
Chairman



SCRUTINY COMMITTEE

THE STATES OF GUERNSEY

Complaints Policies and Appeals Procedures Update

Monitoring Report

November 2007

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This Monitoring Report should be read in conjunction with the Scrutiny Review Report entitled “*Complaints Policies and Appeals Procedures*”, August 2005 (referred to herein as the “Review Report”).

COMPLAINTS POLICIES AND APPEALS PROCEDURES UPDATE
MONITORING REPORT

1. INTRODUCTION

- 1.1 The Committee's public Review entitled "*Complaints Policies and Appeals Procedures*" (*Complaints Review*) was published in August 2005 and discussed by the States of Guernsey at its meeting of 26th October 2005 (Billet D'Etat XV 2005).
- 1.2 The Review concluded that the States did not fully grasp and encourage the opportunity to engage with the public. It found that there was a need for a culture to be developed within the States that complaints and comments from the public are to be valued, dealt with appropriately and used as a management tool. It identified the need for corporate leadership and the lack of adequate existing processes and procedures for dealing with complaints in most Departments.
- 1.3 The Committee made recommendations to the Policy Council in relation to encouraging a corporate approach to dealing with complaints and appeals; to the Treasury and Resources Department in relation to facilitating access for complainants through the States website and guiding Departments on complaints which might have liability implications; and for individual Departments in relation to adopting appropriate policies and procedures for dealing with complaints. A complete list of the Review Recommendations is attached as Appendix B.
- 1.4 The States resolved to note the Committee's Report and to recommend Departments to review their complaints policies and appeals procedures in response to the Report. The States further requested the Scrutiny Committee to monitor such action taken by Departments and report back when appropriate (Billet D'Etat XV 2005). In accordance with the States Resolution, as well as the *Guide to Scrutiny in Guernsey* and the commitment made in the Review Report to monitor the progress made in implementing the Review recommendations (paragraph 2.14.1 of the Review Report); this Monitoring Report provides an update on the outcomes of the Review.
- 1.5 The Committee would like to take this opportunity to thank the Policy Council and Departments for their contributions to the compilation of this Monitoring Report.

2. **EXECUTIVE SUMMARY**

- 2.1 No tangible progress has been made by the **Policy Council** in developing a corporate approach to handling complaints. However, provision has been made in the Government Business Plan so that there is now a positive commitment and a high priority for achieving this in the future. (Paragraphs 4.1 - 4.2 refer).
- 2.2 There has been an encouraging commitment, to varying degrees, from seven of the ten States Departments to signing up to a positive culture for dealing with customer feedback and for progressing their individual policies and procedures to facilitate this.
- 2.3 The **Health and Social Services Department**, the **Culture and Leisure Department**, the **Home Department**, the **Housing Department**, the **Commerce and Employment Department** and the **Environment Department** now have a formal policy and procedures in place (see paragraphs 4.5 – 4.7).
- 2.4 The **Treasury and Resources Department** has introduced a formal policy for its operations in respect of Income Tax and the States Property Services, with plans to extend this to the Cadastre Office and Cashiers Office (see 4.8).
- 2.5 The **Public Services Department** has committed to introduce a formal process for only one of its sections, in respect of Guernsey Water, but had not done so by the completion of this Report (see paragraph 4.9a).
- 2.6 The **Social Security Department** has stated that it has no intention of introducing a formal policy and/or procedures. The Scrutiny Committee does not accept the view of the Department that a formal policy and procedures would be overly bureaucratic and unnecessary (paragraph 4.9b refers).
- 2.7 The **Education Department** appears to have made some moves towards introducing a documented policy and procedures, but this is unconfirmed as the Department did not respond to the Committee's requests for an update on progress (paragraph 4.10).
- 2.8 The Review Report recommended that consideration be given to staff training in dealing with complaints (see 4.11 – 4.13). The **Policy Council** HR Unit provides four courses that are relevant to complaints. Other Departments might be interested to learn more about the specific training programmes provided for the staff of the **Health and Social Services Department** and the **Housing Department**, to adapt for their own purposes.
- 2.9 There has been no development of the central guidance available to Departments on dealing with complaints against staff or "whistle-blowing". However, the **Health and Social Services Department**, the **Environment Department** and the **Home Department** have developed specific guidelines. The Committee

suggests that other Departments could usefully adapt these guidelines for their own purposes. (See paragraphs 4.14 – 4.16 on “whistle-blowing”).

- 2.10 Most Departments have a system for dealing with a customer’s complaint at the point of contact and escalating it if the customer is dissatisfied with the initial response. Departments with formal procedures have allocated expected targets for timescales in which they aim to respond to the customer (4.17 – 4.19 refer).
- 2.11 Some Departments have reported progress on making provisions for appeals, but the Review recommendation to the **Policy Council** to encourage the development of a corporate policy on appeals remains outstanding. (Paragraphs 4.20 – 4.27 refer).
- 2.12 The Committee considers that Departments’ consideration of the role of non-government organisations and other third parties in dealing with complaints could be developed. Limited progress has been made against this recommendation, (as reported in paragraphs 4.28 – 4.32).
- 2.13 The Committee believes that a central requirement for Departments, reflected in Level 3 of Priority 12 the GBP, is to develop a way of recording complaints and compliments and providing analysis of them to enable services to be improved. It also provides Departments with a useful indicator to assess how they are performing in their services and in providing customer satisfaction. The Committee considers that only the **Housing Department**, the **Health and Social Services Department** and the **Culture and Leisure Department** in respect of Beau Sejour, have been able to demonstrate an established process for learning from customer feedback (paragraphs 4.33 – 4.35 refer). The **Housing Department** and **Health and Social Services Department** have kindly provided examples of their recording of feedback, which are shown as Appendix C.
- 2.14 All Departments with formal policies and procedures have stated that they will be reviewed regularly and at intervals of no more than three years, in accordance with the Review Report recommendation (see 4.36 – 4.37).
- 2.15 There has been no progress in providing a corporate approach to making customer information on how to complain readily available. However, some individual Departments were able to demonstrate accessible and customer-friendly information on their services. The Committee felt that the **Health and Social Services Department**, the **Housing Department** and the **Social Security Department** were the most notable of these (See 4.38 – 4.49).
- 2.16 The Committee felt that guidance to staff on dealing with potentially litigious complaints or appeals might need to be improved and, in particular, the **Treasury and Resources Department** was recommended in the Review Report to produce central guidance on public liability implications. This recommendation remains outstanding (paragraph 4.50).

- 2.17 Regarding the small sample of individual complaints cases that the sub-group examined, there were some positive points identified in how the respective Departments handled them. However, there was much room for improvement. Whilst there is no such thing as an infallible system, the Committee strongly believes that the handling of these cases would have been greatly improved had the Departments in question had proper complaints policies and procedures in place and fully integrated. A summary of the aggravating factors and positive examples from the individual complaints examined is provided as Section 5 of this Report.
- 2.18 In summary, progress has been slow and most of the Departments that have introduced formal policies and procedures have done so only very recently. The Committee has been disappointed that Departments have not placed a higher priority on improving their handling of complaints and general customer feedback.
- 2.19 The Committee's monitoring of the Review Report suggests that the Report recommendations have had a positive effect in improving the provision of States services. However, the Committee considers that there is still a long way to go to demonstrate that Departments are signed up to a culture in which complaints are welcomed, valued and dealt with appropriately. The Committee trusts that its Review Report and this Monitoring Report will be of use to Departments and the **Policy Council** in pursuing their obligations under the Government Business Plan to improve further their handling of complaints, in order to respond more effectively to customer needs.

3. **METHODOLOGY**

- 3.1 In February 2006 the Committee wrote to all Departments and the **Policy Council** requesting an update on progress following the *Complaints Review*. Deputy Brian de Jersey and Richard Cox, the former Alderney Representative, were nominated by the Committee to analyse the responses. Former Alderney Representative Cox subsequently left the Committee in January 2007. From May 2007 Deputy Hunter Adam joined Deputy de Jersey in monitoring the outcomes of the Review, resulting in the drafting of this Report.
- 3.2 In a letter dated 15th May 2007 the Committee provided Departments with a further opportunity to comment, with a deadline of 29th June 2007.
- 3.3 Deputies de Jersey and Adam also considered a small sample of how various individual complaints had been processed and dealt with by different Departments. A summary of the observations made by the sub-group is included in this Report.
- 3.4 In October 2007, the **Policy Council** and Departments were given a final opportunity to comment on the complete draft of this Report. The final comments of those Departments that chose to submit them are attached as Appendix A.

4. **PROGRESS AGAINST RECOMMENDATIONS**

Adoption of a culture for dealing with feedback from the public

The Committee anticipated that the Policy Council would coordinate and encourage the implementation of most of the recommendations at a corporate level (see recommendations 14.1.1 to 14.1.9 in the Review Report). This primarily entailed supporting a culture within the States that a range of feedback, including compliments and suggestions and complaints, from the public should be welcomed, valued, dealt with appropriately, and used as a management tool (recommendation 14.1.1 and 14.1.2). Individual Departments were recommended to sign up to this culture (14.3.1).

- 4.1 The **Policy Council** accepted the recommendations relating to corporate responsibility for HR issues (Review Report 14.1.5 to 14.1.7), but stated that it did not feel the recommendations that were not HR related were areas that would fall within its mandate. At this time there have been no proactive measures taken to encourage the development of a corporate culture for dealing with complaints.
- 4.2 However, the **Policy Council**, through the Government Business Plan Team, has committed to leading progress in this area for the future. The Government Business Plan (GBP), as published in Billet D'Etat XVIII 2007, includes a commitment under Priority 12 to *"Meet the needs of Guernsey citizens as public service clients more effectively through corporate working and streamlined delivery."* This includes *"Responding to Client Needs"* with an objective to *"Promote and stimulate an approach to communication throughout the States organisation which will require all States bodies to engage with their clients and to listen attentively to their views, so that service priorities and means of delivery respond directly to client needs."* At level 3 of this Priority, the GBP commits to *"Utilise departmental formal complaints processes to collate information which will identify trends in client satisfaction levels and will identify suggestions which could lead to a more streamlined and responsive delivery of public services."* At present this Priority has not been developed to Level 4, which is intended to translate the higher level objectives into specific actions.

Adoption of formal policy and procedures

At a corporate level, the Committee recommended the Policy Council to encourage the adoption of a uniform definition of a complaint throughout the States and the adoption of a corporate complaints policy statement and objectives (recommendations 14.1.3 and 14.1.4 in the Review Report).

The Committee recommended that Departments adopt a general and concise statement of complaints policy and objectives and formal, documented complaints procedures, taking into account examples of best practice. (Recommendation 14.3.2.)

- 4.3 The **Policy Council** has not taken any steps to develop a corporate definition, statement and objectives.
- 4.4 The **Policy Council** has stated that there are few areas of responsibility or functions that fall within its mandate that could be expected to generate a complaint or request for review and so it does not have formal procedures in place and has decided against introducing any. In its most recent correspondence, the **Policy Council** states that *“the imminent staff restructuring within the Policy Council will transfer out staff involved in operational work. This will further reduce the likelihood of complaints or requests for review.”*
- 4.5 At the time of the Review, only one Department, the **Health and Social Services Department**, already had a formal complaints policy and procedures covering all aspects of its services. As a result of the Committee’s Review, the Department has taken steps to improve upon these. The Department has amended its policy to include complaints made by minors and has stated that it has developed root cause analysis as a means of analysing complaints. The Department has stated that it investigates current best practice in the NHS in health and social care when revising its policy and procedures.
- 4.6 Two further Departments already had some formal processes and procedures for handling complaints in place and, as a direct result of the Committee’s Review, have extended these to cover all areas of their operation:
- (a) The Review Report concluded that the **Culture and Leisure Department** was able to demonstrate convincingly its practice of using complaints to improve service delivery in respect of Beau Sejour, but noted that the Department did not have any formal policy or procedures for its other functions. Since the Review, the Department has developed a policy to cover all of its services, which was implemented in July 2007.
 - (b) At the time of the Review, the **Home Department**, had written formal procedures for dealing with complaints for its Customs and Immigration function but not for its other units (i.e. Police, Prison, Fire Service, Probation Service and Central Services). Since the Review, the Department has recently implemented a formal Complaints Policy covering all of its functions. Individual units are intended to draw up tailored procedures following this overarching policy.
- 4.7 Three Departments previously had no formal complaints processes and procedures and have introduced them as a direct result of the Review process:
- (a) The **Housing Department** introduced a formal complaints policy in May 2005 (whilst the Review was still in progress). In December 2006, the Board agreed revisions to the Department’s complaints policy to take into account the proposed care standards for residential homes produced

by the **Health and Social Services Department**, and changes to the staffing structure of the Department.

- (b) The **Commerce and Employment Department** signed up to a formal complaints policy and procedures in October 2006.
- (c) Following the Review process, the **Environment Department** committed to adopting a formal policy and procedures and were quick to draft appropriate documents. However, progress was slow to implement these, due to limited resources and having to prioritise other work streams. The Department finalised its formal documented policy and procedures in May 2007.

4.8 The **Treasury and Resources Department** has made some progress to improving its procedures as a result of the Review. The Income Tax office has updated its procedure relating to complaints and the Department's States Property Services has issued a "*Staff Code of Practice for Handling Complaints*" and a customer information leaflet on complaints. The Department has also decided that it will be introducing a complaints policy for the Cadastre Office and Cashiers Office and hopes to have procedures in place within the next month or so.

4.9 Two Departments have not introduced a formal policy or procedures:

- (a) During the Review process the **Public Services Department** stated that it intended to harmonise its policy and procedures for complaints across all of its business units. It also described its plans for several initiatives such as the distribution of a leaflet, development of web sites, a quality brand, agreed time frames for response, and a customer charter for customers of Guernsey Water (paragraph 5.3.8 of the Review Report refers). Whilst the Department accepted the need to make these planned improvements, it did not attach a high priority to this work. The Department subsequently informed the Committee that it did not feel any of its other business units, apart from Guernsey Water, required a formal complaints policy and procedures.

The Department has not yet introduced a formal policy for Guernsey Water, but has recently appointed a Customer Services Manager to take this forward. It expects to publish a customer charter for Guernsey Water by the end of 2007.¹

- (b) The **Social Security Department** stated that it welcomed feedback on all of its policies and operations, but the Review Panel found no supporting evidence of this. Since the completion of the Review, the

¹ The Public Services Department has reported a delay on this work due to other workloads, but it states that it remains committed to introducing a customer charter for Guernsey Water, which will now be introduced in 2008 (see Page 4 of Appendix A).

Department has not made many amendments to its policies and procedures concerning complaints, which, aside from statutory obligations, remain unwritten and informal. The Department is content that its existing handling of complaints is sufficient and it has no intention of introducing a formal policy or procedures. It believes it would be *“unnecessarily bureaucratic to follow the very prescriptive complaints procedures which are applied in some of the departments with more diverse operations”*. It states that it remains committed to taking complaints seriously, giving due consideration to all and responding in good time. The Department is making one change to its handling of complaints since the Review, to include a paragraph in its leaflets to invite people who have a complaint to write to the Administrator.

- 4.10 The Review Report found that the **Education Department** had detailed procedures for investigating complaints against individual teachers but only informal undocumented procedures for complaints about the Department itself. At the time, the Department had no plans to introduce more formal procedures. The Department informed the Committee in April 2006 that it was at that time finalising a revised *“Receiving and Managing Complaints Procedure”*, which incorporated an Appeals procedure. It stated that it would be finalising this by the end of that academic year. However, the Department has not responded to the Committee’s request for an update on progress so it is not known whether or not the Department has introduced a formal policy and procedures.

Staff training

As the body responsible for the Human Resources Unit, one of the Report recommendations for the Policy Council was to encourage the provision of corporate staff training in the handling of public feedback, especially complaints (Review Report 14.1.5).

At Department level, each States Department was recommended to consider the provision of staff training in dealing with public feedback, especially complaints (Review Report 14.3.7).

- 4.11 The **Policy Council** has advised that there are four training courses offered that cover aspects of dealing with complaints. One of these is a new course introduced in 2006 entitled *“Dealing Positively with Customers and Clients”*. Courses are advertised to Departments through a published booklet, through nominated departmental Training Liaison Officers and on the States intranet.
- 4.12 Staff in all States Departments have access to the above-mentioned courses. The **Commerce and Employment Department** specifically draws the attention of staff to the available training in its circulated written policy. Some Departments have also incorporated information on handling complaints into their induction processes and staff manuals.

- 4.13 Two Departments would appear to run a specific training programme that includes guidance to staff on dealing with complaints. The **Health and Social Services Department** was found by the Review Report to be already providing a training programme for its staff in this regard. Since the Review, all **Housing Department** staff working in Frossard House, plus senior staff working in the Department's two residential homes, underwent a bespoke Customer Service Training course during the latter part of 2006 and the early part of 2007, which included a specific section on handling complaints.

Complaints against staff and "whistle-blowing"

The Report identified a potential need for the development of a corporate statement of policy in respect of complaints against staff including provisions for "whistle-blowing". It recommended that the Policy Council develop a statement and encourage Departments to carry this policy into their own procedures (14.1.6). It also recommended the Policy Council to encourage the Human Resources Unit to review the protection of employees making disclosures of malpractice (14.1.7).

The Committee further recommended that individual Departments take account in their procedures of special provisions needed in respect of complaints against staff or disclosures of malpractice made by staff i.e. "whistle-blowing" (14.3.3).

- 4.14 The **Policy Council** has stated that best practice is encouraged through the HR Group chaired by the Head of Human Resources including representation from all Departments. The Human Resources Unit has considered further the protection of employees making disclosures of malpractice (i.e. "whistle-blowing"). It has concluded that the current measures are sufficient and that this issue is covered by the Disclosure of Malpractice section in the Civil Service Established Staff Directive entitled "*Conduct*". The **Policy Council** does not intend to implement any changes relating to either of these recommendations.
- 4.15 The **Health and Social Services Department** already had a specific policy to deal with this issue, as identified in the Review Report, entitled "*Raising Concerns by Staff (Whistleblowers)*". Following the Review, the **Environment Department** now has a specific policy on "*Whistle Blowers*" and the **Home Department** has drafted a separate "whistle-blowing" policy, which was due to be implemented shortly after the conclusion of this Report.
- 4.16 No other Departments have reported any progress in this area as yet. The **Housing Department** and **Commerce and Employment Department** have stated that they are waiting for guidance from the **Policy Council**, as recommended by the Review Report, before seeking to develop specific policy guidelines on complaints about staff or by staff. During the Review process the **Education Department** stated that it was preparing a policy on "whistle-blowing" (p32, paragraph 7.2.4 of the Review Report refers), but has not reported any progress on this.

Dealing with complaints at an appropriate level as rapidly as possible

The Review Report recommended that costs could be contained by attempting to deal with complaints through front-line staff wherever possible and appropriate and as rapidly as possible (recommendation 14.3.4). This would mean empowering junior staff to make decisions, within parameters set by management.

4.17 All Departments with formal processes and procedures include provision for appropriate staff to deal with a customer's complaint at the point of contact and a system to escalate it if the customer is dissatisfied with the initial response. For example:

- (a) The **Health and Social Services Department** policy includes flow charts depicting how a minor criticism or formal complaint should be processed, including timescales of five days to deal with a minor criticism or twenty days to respond to a formal complaint. Since the Review process, the Department has introduced a new leaflet and made it clear in its complaints information that if customers are dissatisfied with an initial response to a complaint, the matter may be referred to the political Board. The Department states that a further immediate change made following receipt of the Committee's Review Report was that letters of acknowledgement now inform complainants that the Department aims to respond within twenty working days. If this is not possible, the complainant will receive a progress report and a reason for the delay.
- (b) The **Environment Department's** policy aims to deal with a complaint usually within fifteen working days and undertakes to acknowledge receipt of complaints within seven working days and keep the complainant informed of progress.
- (c) The **Commerce and Employment Department's** policy includes measures to channel complaints through one person who will pass them on to the most appropriate staff level and follow progress to ensure a satisfactory conclusion within the timescales set out in the Policy (ten working days).
- (d) The **Housing Department** has three stages for dealing with complaints. At an initial informal stage the complaint is taken up with the member of staff who has been the contact for providing the service that the complaint relates to. If this is not dealt with to the customer's satisfaction then they can make a formal complaint to a senior manager and if the matter is still not resolved then it will be reviewed by the Chief Officer. The Department aims to deal with informal complaints within ten working days, a stage two formal complaint within twenty working days and a stage three Chief Officer review within ten working days.

- (e) Complaints to the **Home Department** are dealt with by a Senior Officer, (although investigations may be undertaken at Officer level). The Department undertakes to initially respond to a complaint within five working days.
 - (f) The **Culture and Leisure Department** has a staged approach for initiating an informal complaint and making this formal if the customer is dissatisfied. The Department also highlights that, if at the end of the process the complainant is still dissatisfied, they can contact the States Review Board.
- 4.18 According to the government website, the **Education Department** now advises parents who might have a complaint about their child's education to take this up with the school in the first instance. If a parent wishes to take their complaint further then the Department advises them to put their complaint in writing to the Department. The Department undertakes to acknowledge the complaint within a few days and assign an Education Officer to follow-up the complaint.
- 4.19 The **Social Security Department** does not have a formal policy or procedures but states that if a customer is not satisfied with the response or level of service provided by a member of staff, they are encouraged to write to the Administrator.

Provisions for appeal

The Committee recommended that the Policy Council encourage the development of a corporate policy on appeals procedures and that individual Departments take account of this and adopt specific provisions for appeals (14.1.8 and 14.3.5). The Review concluded that formal appeals procedures should be specifically applied to complaints about individual decisions made by Departments, distinct from complaints about the manner in which services are provided or the way a particular matter has been handled.

- 4.20 The **Policy Council** had no progress to report against this recommendation.
- 4.21 The **Health and Social Services Department** already had procedural provisions for a legislative court appeal in respect of children's social services in place before the Review. The Department stated during the Review process that it might consider introducing an independent appeals system for its health services (ref. p45 paragraph 10.4.5 of the Review Report). The Department states that preliminary discussions have taken place with Health and Social Services in Jersey regarding setting up an inter-insular system for reviewing complaints where the complainant remains dissatisfied. The Department states that, in the meantime, if a complainant is dissatisfied then arrangements can be made for an external review of the case.

- 4.22 The **Environment Department's** procedures encompass appeals against Departmental decisions that are not covered by a legislative appeals process. In this respect, a complainant may appeal to the Chief Officer, the Department's Board or the States of Guernsey Review Board if they are dissatisfied with a decision made or how a complaint has been handled. If a legislative appeals process applies, the Department undertakes to inform the customer of the mechanism of appeal when communicating the Department's decision to them.
- 4.23 The **Social Security Department** has statutory appeals provisions for decisions taken by the Administrator, for example in respect of Social Insurance, Health Service benefit, long-term care, attendance allowance, invalid care allowance, supplementary benefit, and family allowance. However, the Department does not have any policy or procedures for other decisions or written guidance for staff in handling the statutory appeals.
- 4.24 The **Commerce and Employment Department** has stated that it is revisiting all legislation under its administration where there is no clear appeals mechanism, but it did not have any progress to report by the conclusion of this Report.
- 4.25 The **Housing Department** provides specific appeals procedures for tenants and prospective tenants who disagree with a decision the Department has taken about their application, home or tenancy. This is enacted under the terms of the Tenancy Agreement and was agreed by the States in March 2005, shortly before the completion of the Scrutiny Review. A tenant can request a review of the decision and then if they are still unhappy with the outcome in some cases they will have a right of appeal to the Housing Appeals Tribunal, which is independent of the **Housing Department**. The Housing Control legislation provides for a statutory appeals process.
- 4.26 As noted in the Review Report, the **Home Department** has statutory appeals provisions for prisoners, who have access to the Panel of Visitors. During the Review process, the Department reported that an independent Police Complaints Commission was being set up, as approved by the States in January 2005 (Billet D'Etat I 2005). This States Resolution is pending the preparation of appropriate legislation. The Department has recently stated that it is hoped that the Commission should be in place by 2008 and that it is intended to investigate the possibility of extending the responsibilities of this Commission to other Department services and not just the Police.
- 4.27 At the time of the Review, the **Home Department** did have some informal procedures for appeals received in respect of the outcome of Customs and Immigration investigations (paragraph 10.5.5 of the Review Report refers). The Department's new overarching complaints policy includes provision that the different services of the Department will formulate their own bespoke complaints policy, sitting under the general policy, which will include details on the appeals process for decisions of the Department relating to that service area.

The role of non-government organisations and others

The Committee recommended that Departments take account in their procedures of the potential role of non-governmental organisations and others in providing third-party assistance in the handling of complaints (14.3.6). Third parties might include the Citizens' Advice Bureau, the Information Exchange, trade unions, and individuals such as States Members. The role they could play could include the provision of information about complaints procedures, assistance to the complainant in dealing with the Department and monitoring progress, or acting as a mediator in seeking a resolution.

- 4.28 The **Health and Social Services Department** will deal directly with the complainant unless he/she gives consent for the response to be sent to the third party. If a third party is acting on behalf of a complainant who wishes to remain anonymous then the Department informs the correspondent that it may not be possible to address the issues fully and the Department responds in general terms only. Since the Review, the Department has developed specific guidance on how a third party, for instance a parent or guardian, can facilitate dealing with a complaint by a minor. The Department has also sent copies of its leaflets with information about its complaints policy and procedures to the Citizens Advice Bureau.
- 4.29 The **Housing Department** states that it has a good working relationship with the Citizen's Advice Bureau, in particular with regard to them assisting the Department to explain tenancy policies and procedures, including the appeal processes that apply to statutory decisions.
- 4.30 The **Environment Department** acknowledges in its Customer Complaint Procedure that a complaint might be made by a third party *"anyone representing an individual or group of individuals who have used or seek to use the services of the Environment Department and is so authorised in writing to act on their behalf"*.
- 4.31 The **Home Department** policy states that complaints may be received from a third party acting on behalf of an individual. It also provides that a complainant may have a friend accompany them at any meetings or hearings in the process.
- 4.32 The **Commerce and Employment Department's** policy does not take account of the potential role of third parties in the first draft of the policy, but it is intended to look at these factors when it is next reviewed by the end of 2007.

Recording and analysing public feedback

The Review Report found that few Departments had any quantitative information about the volume of complaints received or analysed customer feedback in order to improve services and/or amend policies. The Committee recommended that each Department should have a means of recording, collating, analysing and evaluating public feedback,

including complaints, in a manner appropriate to that Department (14.3.8). It further suggested that political Boards should see categorised summaries of complaints and other feedback comments at least annually. These summaries should include an indication of any changes to public services which have been made as a result of public feedback.

4.33 Two Departments were able to provide evidence of an established reporting process in respect of all of their operations, which have been included as Appendix C, as examples of good practice:

- (a) The Review Report found that **Health and Social Services Department** has a structured process for monitoring complaints and reporting on this at Senior Officer and Board level on a regular basis. As shown in the template provided in Appendix C, the Department compares the number of complaints to the previous year, identifies recurring concerns and summarises the complaints received.
- (b) Following the Review, the **Housing Department** records all complaints and reports these to the Board on a quarterly basis. For example, as shown in the table included in Appendix C, the Department received six complaints during the first quarter of 2007, all of which were reported to have been resolved within the twenty-day guideline. In addition, four comments were received commending the work of the Department.

4.34 The **Culture and Leisure Department** was found by the Review Report to have a good reporting and analysis system for feedback in respect of Beau Sejour.

4.35 Other Departments have established a system for registering and recording complaints but this has not yet had time since implementation to provide appropriate feedback or analysis. Some other Departments are in the process of implementing a reporting system:

- (a) The **Environment Department** has stated that it will record all complaints regarded as formal (those complaints for which a form is completed by the complainant or by the member of staff on the complainant's behalf, where the matter cannot be quickly resolved, involves follow-through actions, alterations to policies or procedures, or has not been resolved informally to the complainant's satisfaction). The Department has nominated a member of staff as a Complaints Registrar who keeps a register of the formal complaints. As the Department's policy and procedures are still in their infancy, it has not yet had an opportunity to collate its complaints for report to the Board.
- (b) The **Commerce and Employment Department** states in its policy that all feedback will be logged and presented to the Directors' group and the Board on a regular basis. However, the Department states that it has not

had any complaints since the policy was introduced and so has not yet had anything to report. As mentioned in the Review Report (11.3.2), the Committee would suggest that the Department should require the analysis of visitor feedback and review that analysis regularly.

- (c) The **Treasury and Resources Department** has stated that all enquiries, comments and suggestions in regard to the Income Tax Office are logged on a centralised schedule (in the form of a spreadsheet) and senior staff are responsible for reviewing all complaints and the progress made in resolving them. The Department proposes to adopt a similar approach to record complaints handled by the Cadastre and Cashiers Offices and the States Property Services.
- (d) The **Home Department**'s general policy provides guidance to its service areas that each must implement guidelines on evaluation, recording and monitoring processes. The Department intends to provide statistics to the Board on an annual basis as part of the Human Capital Audit Report.
- (e) The **Public Services Department** is developing a new customer contact system for Guernsey Water, which will include reporting facilities enabling tracking and measuring of performance in responding to all customer contacts, including complaints.

Regular review period

The Committee asked all Departments to consider reviewing their policies and procedures on a regular basis, suggesting every three years (14.3.9).

- 4.36 All Departments with formal policies and procedures have stated that they will be reviewed regularly and at intervals of no more than three years and the majority have included a statement to that effect in their written policy.
- 4.37 The **Culture and Leisure Department** was considering introducing a "mystery complainant" to test the general departmental complaints policy once it is implemented, but has decided against this. Beau Sejour and the Museums already have "mystery visitors" as part of their accreditation processes.

Availability of customer information on how to complain

The Policy Council were recommended to provide central advice to the public about which Department is responsible for specific matters, guidance as to the appropriate contact point within the relevant Department and provision of information as to how to make complaints and comments (14.1.9).

The Treasury and Resources Department was recommended to give priority to providing relevant information on the States web site, in association with other Departments (14.2.1).

The Committee recommended that Departments publish complaints policies and procedures, together with appeals procedures, in leaflet form and on web sites and make this information generally available. It further recommended that Departments facilitate the making of complaints and comments, for example by the provision of simple forms, and ensuring that appropriate contact information is provided in correspondence (recommendations 14.3.10 and 14.3.11).

- 4.38 The **Policy Council** did not accept the recommendation to provide central advice to the public on how to complain or comment about government services.
- 4.39 The **Treasury and Resources Department** has acknowledged that its development of the government website to give a high profile to customer information on complaints is outstanding and it has committed to address this as soon as is practicable, having regard to its other priorities.
- 4.40 The **Health and Social Services Department** has a written corporate policy for how service user information should be presented to ensure that it is accurate, clear, relevant, up-to-date and in an approved format. The Department was found in the Review process to be providing easy to access information to service users and encouraging feedback.
- 4.41 The **Social Security Department** provides contact details for its different sections and on-line leaflets explaining its services, which in turn provide contact details for any queries. A paragraph is being added to leaflets as they are reprinted to advise customer wishing to complain about the services provided by the Department to write to the Administrator.
- 4.42 The **Environment Department** recently published information on its complaints policy and procedures on its section of the government website and made the relevant documents available at the Department's reception at Sir Charles Frossard House and at its Bulwer Avenue premises.
- 4.43 The **Culture and Leisure Department** has stated that it has included contact information on any new interpretation boards in respect of its historical sites and has made its comments forms available at all of the Department's sites. At the time of writing, the complaints policy and comments form were not available on-line, but the Department does provide a contact email and invites any queries customers may have.
- 4.44 The **Commerce and Employment Department** has a dedicated email address for receiving complaints, complaints@commerce.gov.gg and a Customer Feedback Form. The Department states that the forms together with an explanatory letter are available from Raymond Falla House.
- 4.45 The **Home Department** has created an information leaflet for each of its service areas, available from the operational premises of that service. The Customs and

Immigration service's leaflet is available on-line and the Department hopes that the other leaflets will be published on-line in the near future.

- 4.46 The **Housing Department** produces a simple to use Customer Feedback form to facilitate and encourage feedback. The Department publishes a leaflet entitled "*Helping us to get things right – Our Complaints Policy*", which provides an explanation of the complaints procedure and contact details of who to complain to. The Department also provides a "*Tenants' Handbook*" explaining what tenants of States Housing can expect from the Department and how to make a complaint, provide feedback, or to appeal against the Department's decisions. This can be obtained on request from the Department's offices or at the Family Centres at Les Genats Estate and the Grand Bouet and every new tenant is sent one. A separate guidance leaflet on how to challenge decisions also provides further information on how appeals are handled on tenancy decisions and is sent out with the letter informing the person of the Department's decision where that decision is appealable.
- 4.47 The **Housing Department's** complaints policy, guidance leaflets and feedback form are ordinarily available from the Department's Reception and are now also available on-line in the relevant section of the government website.
- 4.48 The **Treasury and Resources Department's** States Property Services has distributed an information leaflet on its complaints policy, which the Department states is available from Frossard House and at the Foulon Cemetery. Income Tax has published its complaints procedures on-line, but other services of the Department do not have any on-line presence.
- 4.49 The Review Report identified that the **Education Department** had little information published about how customers could make a complaint. The Department stated at that time that it would consider public awareness during a review of its complaints policy. The Department has since provided a statement on its website (www.education.gg), which is also accessible from the government website, informing parents how to register a complaint about their child's education.

Public liability

The Review Report recognised that some complaints have liability implications and/or may result in an insurance claim. The Committee therefore recommended the Treasury and Resources Department to prepare guidelines for Departments in handling complaints which may have liability implications (14.2.2).

- 4.50 The **Treasury and Resources Department** has acknowledged that this guidance is still outstanding and that it will address this as soon as is practicable in regard to its other priorities.

5. EXAMPLES OF INDIVIDUAL COMPLAINTS

- 5.1 The Committee wished to look at examples of how Departments dealt with particular complaints under their policies and procedures. The sub-group has therefore considered a few “case studies”. This is qualitative data that illustrates only how these Departments have dealt with these particular complaints. There was no reason for picking these particular cases other than the fact that the complainants wrote specifically to the Committee to ask for its intervention. In each case, the Committee has explained to the correspondent that it has not been able to get involved with the details of the individual complaint or grievance, which is outside of the Committee’s remit, but it has monitored the processes and procedures adopted by the Department responsible in responding to the complaint, as part of the Committee’s follow-up to its Review Report on Complaints Policies and Appeals Procedures.
- 5.2 The Committee’s sub-group has reached the following observations and conclusions, which would be relevant to all Departments, based on the anecdotal evidence it has received.

Aggravating Factors for Complaints

Unclear Responsibilities

- 5.3 A few of the complaints examined were exacerbated by the nature of the complaint touching on responsibilities of more than one Department or organisation. In one case the complainant stated that they were given contradicting advice from different States Departments. In another complaint, it was not clear to the complainant where responsibilities lay of different Departments and organisations and to whom the complaint should be made. This was not made much clearer to them through their correspondence with all of the bodies concerned.

Poor Communications

- 5.4 A few of the cases the sub-group looked at might have been avoided as a formal complaint if communications had been better in the first instance. Some were triggered because services had been changed, or work had been carried out, without informing those most affected. One customer pointed out that there was a lack of information on what the customer could expect from the service provided, what was required of the customer in order to get the service and the length of time it would take to process. In this instance the lack of such information led to confusion and delay and the customer’s expectations not being realised.
- 5.5 In a couple of examples, the unavailability of front-line staff to discuss a problem was an aggravating factor that led to making a formal complaint. In

two other cases, the attitude of front-line staff when the customer raised a problem with them was included in the original complaint.

- 5.6 In one instance, following an exchange of correspondence that did not resolve the issue raised, the Department concerned refused requests for a face-to-face meeting to discuss the complaint.
- 5.7 In one case, the Department did not provide the complainant with an explanation for its decision in its response to their letter, but did provide a full explanation when an advocate wrote on the complainant's behalf.
- 5.8 In one complaint, the Department did not respond to all of the aspects of the complaint, which caused the customer further dissatisfaction and led to the receipt of a subsidiary complaint.
- 5.9 Some complainants alleged that they had not had any acknowledgement of their letters.
- 5.10 In two examples, the complainant was not given a timescale of when the complaint would be considered or responded to and so perhaps had unrealistic expectations of how long it would take.
- 5.11 The sub-group thought that a couple of responses from Departments were overly defensive, even verging on aggressive, and did not show any empathy with the complainant.

Long Response Time

- 5.12 In a couple of instances the length of time taken to investigate a complaint seemed unreasonable and significantly escalated the seriousness of the complaint. In one complaint, there was also a significant delay in informing the complainant of the outcome of the investigation.

Insufficient Appeals Process

- 5.13 Not all complainants were informed whether they would have any access to appeal against a Department's decision. In cases where a legislative appeals process applied, this was only given cursory mention with little or no information on how to make such an appeal. Whilst statutory deadlines for appeals were provided, it was not clear when the timeframe was perceived to have started from or whether there would be any possibility of an intermediary stage of appeal before going to the expense and formality of a statutory process.

Positive Examples of Dealing with Complaints

- 5.14 The sub-group identified the following positive attributes in the handling of the particular complaints examined:

- (a) Quick acknowledgement of a complaint;
- (b) Dealing with the complaint at an appropriate level and escalating it when the complainant was dissatisfied with the initial response;
- (c) A courteous and helpful attitude in the response;
- (d) Recognition when a mistake had been made and providing an apology;
- (e) Empathising with the complainant's position (without necessarily agreeing);
- (f) Taking ownership of the complaint and its resolution (without necessarily accepting liability).

6. **RECOMMENDATIONS**

At a corporate level, the Policy Council is recommended to:

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|---|---|----------------|
| 1 | Develop Level 4 actions under the Government Business Plan Priority 12 to take a proactive corporate lead in encouraging a culture for dealing with feedback, especially complaints; | 2.1, 4.1 – 4.2 |
| 2 | Develop a uniform definition of a complaint, a statement of complaints policy objectives and a corporate statement of complaints policy, (as recommended in the Scrutiny Review Report entitled “ <i>Complaints Policies and Appeals Procedures</i> ”, August 2005, 14.1.3 and 14.1.4); | 2.1, 4.3 |
| 3 | Review existing policies on whistle-blowing and consider developing a corporate statement of policy as guidance to all Departments (as recommended in the Scrutiny Review Report 14.1.6); | 2.9, 4.14 |
| 4 | Review provisions for the protection of employees making disclosures of malpractice regularly in the light of Departments' experience; | 2.9, 4.14 |
| 5 | Develop a corporate policy on appeals (as recommended in the Scrutiny Review Report 14.1.8); | 2.11, 4.20 |
| 6 | Coordinate central advice to the public on how to complain or comment about government services. | 2.15, 4.38 |

At a corporate level, the Treasury and Resources Department is recommended to:

- | | | |
|---|---|------------|
| 7 | Give priority to providing relevant information on States web sites, in association with other Departments (as per recommendation 14.2.1 of the Scrutiny Review Report); | 2.15, 4.39 |
| 8 | Prepare guidelines for Departments in handling complaints which may have liability implications. These guidelines should take into account the need for dealing with such complaints in an expeditious manner, while safeguarding States' interests (as recommended in the Review Report 14.2.2). | 2.16, 4.50 |

At a departmental level, the Scrutiny Committee recommends that:

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|----|---|-------------------|
| 9 | The Home Department draws up tailored procedures for its individual units following the Department's overarching policy; | 4.6b |
| 10 | The Treasury and Resources Department introduces a written policy and procedures covering the remainder of its operations; | 2.4, 4.8 |
| 11 | The Public Services Department and the Social Security Department introduce a written policy and procedures covering all of their operations; | 2.5 – 2.6, 4.9 |
| 12 | The Education Department introduces a written policy and procedures covering all of its operations, if it hasn't already done so; | 2.7, 4.10 |
| 13 | The Commerce and Employment Department, Culture and Leisure Department, Education Department, Housing Department, Public Services Department, Social Security Department and the Treasury and Resources Department consider adapting the existing policies of other Departments on "whistle-blowers" to their own needs; | 2.9, 4.15 – 4.16 |
| 14 | The Public Services Department, Social Security Department and Education Department, the Home Department, the Treasury and Resources Department in respect of its operations where it has not already done so, Culture and Leisure Department in respect of its other operations to Beau Sejour, develop a process for recording, collating, analysing and evaluating public feedback, including complaints. The Commerce and Employment Department to extend their reporting to an analysis and review of visitor feedback. | 2.13, 4.34 – 4.35 |

All Departments are recommended to:

- | | | |
|----|--|-------------------------|
| 15 | Develop Level 4 actions under the Government Business Plan Priority 12 to develop their complaints processes and procedures and give a high priority to dealing with customer feedback, especially complaints; | 2.1, 4.1 – 4.2 |
| 16 | Develop training plans for staff including training in dealing with customer feedback and particularly complaints, if they haven't already done so; | 2.8, 4.11 – 4.13 |
| 17 | Develop the potential roles of non-government organisations, individuals and mediators in the resolution of complaints where appropriate; | 2.12, 4.28 – 4.32 |
| 18 | Regularly review and improve the accessibility of their complaints procedures to the public, in the distribution of leaflets and on-line. Details on how to complain should also be sent to the Citizens Advice Bureau and any other relevant outlet; | 2.15, 4.40 – 4.49 |
| 19 | Develop specific policy guidelines and procedures for staff dealing with appeals, including clarifying legislative procedures and dealing with potentially litigious complaints, taking into account any central guidance issued by the Treasury and Resources Department ; | 2.16, 4.21 – 4.27, 4.50 |
| 20 | Continue to regularly review, monitor and develop their complaints and appeals processes and procedures. | |

APPENDICES

- A Departments' Comments** - Departments' comments on the final draft Monitoring Report
- B Review Recommendations** - Extract of Scrutiny Review of Complaints Policies and Appeals Procedures, August 2005
- C Management Reporting** - Examples of quarterly Board reports on customer feedback from the **Health and Social Services Department** and the **Housing Department**.

DEPARTMENTS' COMMENTS

APPENDIX A



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The Chairman
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Sir Charles Frossard House
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29 October 2007

Dear Deputy Pritchard

Complaints Policies and Appeals Procedures Monitoring

Thank you for your letter of 11 October with regard to the above and the attached Monitoring Report.

Whilst acknowledging that improvements can always be made; the Culture and Leisure Department considers that its complaints procedures are currently at an appropriate level for its areas of responsibilities.

It has, however, noted that the following areas have been highlighted by the Monitoring Report as requiring further development either corporately or departmentally and undertakes to assist or carry out that work as quickly and effectively as possible.

- A specific policy on 'whistle blowing'
- Improved availability of written information on how to complain to the department
- Improved availability of information on-line on how to complain to the department
- Development of a corporate or departmental policy on appeals
- Corporate or in-house provision of improved training

Yours sincerely

Deputy Peter Sirett
Minister



HOME

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

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Deputy J Pritchard
Chairman
Scrutiny Committee
Sir Charles Frossard House
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25th October 2007

Dear Deputy Pritchard

COMPLAINTS POLICIES AND APPEALS PROCEDURES MONITORING

I refer to your letter dated 11th October 2007 and the attached Draft Monitoring Report. I can confirm that, in general, the Home Department is happy with the content of this report.

If you require any further information please contact Rosemary Bean, Human Resources Manager on 717388.

Yours sincerely

G H Mahy
Minister
Home Department

E/Scrutiny/Scrutiny Letter re complaints/231007



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25th October 2007

Dear Deputy Pritchard

Complaints Policies and Appeals Procedures Monitoring

Thank you for your letter dated 11th October 2007 enclosing a complete draft of the Monitoring Report.

I am happy for the Housing Department's analysis and reporting of complaints and customer feedback to be appended as Appendix C in the report.

I believe the report accurately reflects the positive progress the Housing Department is making in dealing with complaints and appeals.

Yours sincerely


D Jones
Minister



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Our Ref: S2638

25 October 2007

The Chairman
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Dear Deputy Pritchard

COMPLAINTS POLICIES AND APPEALS PROCEDURES MONITORING

Thank you for your letter dated 11 October 2007 regarding the above.

The only comment that the Department has on your Committee's draft report relates to the expectation that Guernsey Water will publish a customer charter by the end of 2007. Guernsey Water remains committed to publishing the charter, however, due to the introduction of TRP and the workload associated with this, the new customer charter will now be introduced in 2008.

Should you require any further information please do not hesitate to contact me.

Yours sincerely

William M Bell
 Minister



SOCIAL SECURITY

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Deputy J A Pritchard
Chairman
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Sir Charles Frossard House
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Our Ref:

Your Ref:

Date: 9 November 2007

Dear Deputy Pritchard

Complaints Policies and Appeals Procedures Monitoring

I refer to your letter dated 11 October 2007, seeking the Social Security Department's comments on the Scrutiny Committee's draft Monitoring Report regarding Complaints Policies and Appeals Procedures. Please accept my apologies for the late submission of the Department's comments. The earliest opportunity for this matter to be considered by the Department was at its meeting on 7 November 2007.

Department Members noted that the content of the report relating to the Social Security Department was factually accurate. However, Members felt that too much emphasis was placed on the need for formal documented complaints policies and procedures with less emphasis being placed on the importance of adopting a customer service culture.

Paragraph 4.2 of the Monitoring Report notes that the Policy Council, through the Government Business Plan Team, has committed to leading progress in this area.

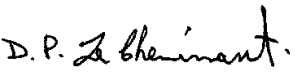
The Social Security Department has sought to improve the performance of the organisation through the Investors in People (IiP) Standard. The Department was first accredited in 2001, was re-accredited in 2004 and is about to commence a further re-accreditation process. IiP is a business improvement tool designed to advance an organisation's performance through its people. IiP is based on three key principles:

- Plan – Developing strategies to improve the performance of the organisation
- Do – Taking action to improve the performance of the organisation
- Review – Evaluating the impact on the performance of the organisation.

It remains the opinion of the Department that a formal mechanism for handling and monitoring complaints is overly bureaucratic and is less important than creating and maintaining a departmental culture that has customer service and continual improvement at its core.

Thank you for providing the Department with the opportunity to comment on the Committee's draft Monitoring report.

Yours sincerely

A handwritten signature in black ink, appearing to read "D. P. Le Cheminant". The signature is written in a cursive style with a prominent vertical stroke at the end.

D P Le Cheminant
Deputy Minister

EXTRACT OF SCRUTINY REVIEW REPORT AUGUST 2005

14. RECOMMENDATIONS

The conclusions reached in the various sections of this Report are here translated into specific recommendations. At the corporate level the Panel would anticipate that the **Policy Council** would coordinate the implementation of most of the recommendations. Cross-references are provided to specific sections of the Report.

14.1 At the corporate level the Policy Council is recommended to encourage:

- 14.1.1 a culture within the States that complaints and comments from the public are welcomed, valued, dealt with appropriately, and used as a management tool (see 7.4.4);
- 14.1.2 Departments to adopt the concept of a range of feedback, including compliments and suggestions, but highlighting complaints (see 6.4.3);
- 14.1.3 the adoption of a uniform definition of complaint throughout the States (see 6.4.4);
- 14.1.4 the adoption of a general and concise statement of complaints policy objectives, and a corporate statement of complaints policy (see 7.4.3 and 13.1.6);
- 14.1.5 the provision of corporate staff training in the handling of public feedback, especially complaints (see 9.6.2);
- 14.1.6 the development of a corporate statement of policy in respect of complaints against staff including provisions for whistle-blowing and encouragement for Departments to carry this policy into their own procedures (see 9.6.3 and 9.6.4);
- 14.1.7 the Human Resources Unit to review the protection of employees making disclosures of malpractice (see 9.6.5).
- 14.1.8 the development of a corporate policy on appeals (see 10.7); and
- 14.1.9 the provision of central advice to the public about which Department is responsible for specific matters, guidance as to the appropriate contact point within the relevant Department, and provision of information as to how to make complaints and comments (see 12.4.3 and 13.1.4).

14.2 At the corporate level the Treasury & Resources Department is recommended to:

- 14.2.1 give priority to providing relevant information on States web sites, in association with other Departments (see 12.4.4 and 12.4.5); and
- 14.2.2 prepare guidelines for Departments in handling complaints which may have liability implications. These guidelines should take into account the need for dealing with such complaints in an expeditious manner, while safeguarding the States' interests (see 13.2.5).

- 14.3 **At the Department level, each States Department is recommended to consider:**
- 14.3.1 signing up to a general and concise statement of complaints policy objectives, including the adoption of a culture that complaints from the public are valued, dealt with appropriately, and used as a management tool (see 7.4.3 and 7.4.4);
 - 14.3.2 adopting formal, documented complaints procedures, taking into account examples of best practice (see 8.2, 13.1.6, 13.2.5 and Appendix G);
 - 14.3.3 taking account in their complaints procedures of special provisions needed in respect of complaints against staff, and whistle-blowing (see 9.6.3 and 9.6.4);
 - 14.3.4 adopting the principle that complaints should be resolved at the most appropriate staff level, and as rapidly as possible, in the interests of service to the public and the containment of costs (see 13.3.5);
 - 14.3.5 adopting specific provisions for appeals, in accordance with the corporate policy (see 10.7);
 - 14.3.6 taking account of the potential roles of non-government organisations, individuals and mediators in the resolution of complaints (see 13.4);
 - 14.3.7 the provision of Departmental staff training in dealing with public feedback, especially complaints (see 9.6.2);
 - 14.3.8 recording, collating, analysing and evaluating public feedback, including complaints (see 6.4.6 and 11.3.3);
 - 14.3.9 reviewing complaints policies and procedures regularly (see 11.3.4);
 - 14.3.10 publishing complaints policies and procedures, together with appeals procedures, in leaflet form, and on web sites, and make this information generally available (see 12.4); and
 - 14.3.11 facilitating the making of complaints and comments, for example by the provision of simple forms, and ensuring that appropriate contact information is provided in correspondence (see 12.4).

HEALTH AND SOCIAL SERVICES DEPARTMENT**THIRD QUARTER
SUMMARY OF COMPLAINTS
and
COMPLIMENTS****2007**

HEALTH and SOCIAL SERVICES DEPARTMENT

Categories of Complaint

Subject of complaint	Code
Admissions, discharge and transfer arrangements	01
Aids, appliances, equipment	02
Appointments, delay / cancellation	03
Procedure delay / cancellation	04
Attitude of staff	05
Clinical care and treatment	06
Communication / information to service users (written and oral)	07
Consent to treatment	08
Complaints handling	09
Service users privacy and dignity	10
Service users property and expenses	11
Personal records	12
Failure to follow agreed procedures	13
Service users status, discrimination	14
Service Access	15
Transport	16
Premises/environment	17
Health and Safety	18
Hotel services (including food)	19
Confidentiality	20
Disagreement over decision made	21
Lack of consultation	22
Standard of care (general)	23
Other	24

SUMMARY OF COMPLAINTS JANUARY – SEPTEMBER 2007

Service	Patient Safety										Quality of Care										Patient Experience										Operational Performance										Financial Performance										Compliance & Risk										Overall Performance									
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50																				
Inpatient Services	Adm/Disch/trans																																																																					
	Aids/equipment																																																																					
	Appt. delay outpt																																																																					
	Proc./delay inpt																																																																					
	Staff attitude																																																																					
	Clinical care																																																																					
	Communication																																																																					
	Consent																																																																					
	Complaints hand'lg																																																																					
	Privacy dignity																																																																					
Outpatient Services	Property /Exp																																																																					
	Personal records																																																																					
	Failure follow proc																																																																					
	Service Access																																																																					
	Transport																																																																					
	Premises environ																																																																					
	Health & Safety																																																																					
	Stand. care (gen)																																																																					
	Confidentiality																																																																					
	Decisions made																																																																					
Other	Status, discrim'tion																																																																					
	Hotel services																																																																					
	Other																																																																					
TOTAL																																																																						

COMPLAINT DETAIL 3rd QUARTER

ID	Date received	Cat.	Service area	Complaint details	Response to complainant	Days to respond	Further action (if required)	Completed *

* 'Completed box' is not filled in until any action needing to be taken (if required) following the investigation into the complaint has been completed.

Trends identified during 3rd quarter (2 or more complaints relating to same issue)

Update from 2nd Quarter*

ID	Date received	Cat.	Service area	Complaint summary	Response to complainant	Days to respond	Further action (if required)	Completed *

- Details of any complaints outstanding at end of 2nd quarter.

HEALTH AND SOCIAL SERVICES DEPARTMENT
COMPLIMENTS AND SUGGESTIONS 3rd QUARTER 2007

DATE	AREA	COMPLIMENT	SUGGESTION (Response in brackets)

Total:

HEALTH AND SOCIAL SERVICES DEPARTMENT

ANNUAL REPORT TEMPLATE

1. Introduction

2. **Number of complaints**

HSSD clinical
HSSD non clinical
External agencies (listed)
Comparison with previous 5 years

3. Method of complaint

Written, verbal, e-mail etc
Complaints from third parties on behalf of service users e.g. Deputies,
Advocates, GPs

4. **Analysis**

Most common categories of complaints (number and percentage of total).
Comparison with previous 5 years.
Analysis of reasons for complaints by category.

5. Comparison with NHS

6. **Trends**

7. **Response to complaints**

Compliance with policy

8. **Appeals against response to complaint**

9. **Actions taken to minimise recurrence of incident leading to complaint (including root cause analysis)**

10. **Informal complaints**

Numbers and most common reasons

11. **Compliments and Suggestions**

Numbers of compliments
Suggestions that have been acted upon

MANAGEMENT REPORTING - HOUSING DEPARTMENT

Complaints/Comment Register - 1st Quarter 2007

HD/ GHA	NAME PERSON MAKING COMPLAINT / COMMENT	DATE COMPLAINT/ COMMENT RECEIVED	AREA OF COMPLAINT/ COMMENT	REASON FOR COMPLAINT / COMMENT	ACTION TAKEN TO INVESTIGATE/ RECTIFY PROBLEM	OUTCOME OF COMPLAINT	RESPONSE WITHIN?	RESOLVED
1 HD		09.01.2007	Maintenance	E-mail complaint regarding a second hand, non-matching cupboard being installed, also regarding the time delay in additional work being completed	A response was sent on the 09.01.2007 explaining the situation and outlining the steps which would be taken to rectify any problems.	The person responded to the e-mail on 10.01.07 [the complainant] would like addressed - see No. 4	Same day	Yes
2 HD		09.01.2007	Tenancy	Manner in which they were dealt with by a member of staff, member of staff had contacted Social Services	A response was sent on 24.01.2007 and explained a full investigation had been conducted and explained the reasons why the member of staff had contacted Social Services; also that [the staff member] contended [their] manner had been appropriate.	Accepted	15 days	Yes
3 HD		Compliment 13.01.2007	Tenancy	Letter thanking a member of staff for the way they had dealt with the end of their tenancy, thanking another member of staff for the understanding manner in which [they] conducted the review and thanking the Department as a whole for the fair attitude which had been shown to them.	No action taken - relevant staff informed of letter	N/A	N/A	N/A
4 HD		10.01.2007	Maintenance	Complaint against a member of staff - tenant felt [the staff member] constantly makes flippant remarks to [the complainant]	A response was sent stating senior staff would investigate the complaint against a member of the Department and respond to [the complainant]. [The Senior Officer] spoke with the member of the Department who stated [they] did not mean any of [their] comments to be flippant and assured [the Senior Officer] that [they] would be more careful with [their] choice of phrase so as not to cause offence.	Accepted	Same day	Yes
5 HD		01.02.2007	Tenancy	Complaint against the Department regarding not being transferred to a different area after being put on the list 2 years ago; also a member of staff cancelling an appointment at the last minute to visit them.	A member of staff rang the person to advise [them] on [their] predicament and sympathised with [their] situation.	The person thanked the member of staff for her concern	Same day	Yes
6 HD		12.02.2007	Maintenance	The person stated [they] had been waiting for a new bath since August/September 2006 and has had no response to [their] requests.	Apology for not organising the work at the specified time. member of staff will visit this week.	Accepted	1 day	Yes
7 HD		13.02.2007	Tenancy	Letter addressed to [deceased spouse]; also believes the rent [the complainant] is being charged had been calculated incorrectly	Phone call to the person when the letter was received apologising for the errors in recalculation, apologised for the name the letters were addressed to which were due to a computer system error which had now been rectified. Letter also sent on 13.02 confirming this information.	Accepted	Same day	Yes
8 HD		Compliment 14.02.2007	Allocations	Letter thanking a member of staff and the Department for allocating their property and also thanking a member of staff for meeting with them in November and listening to them	N/A	N/A	N/A	N/A
9 HD		Compliment 14.02.2007	AFM Limited	The person wrote to praise the service from AFM Limited during their relocation. [The person] stated they did an excellent job and all the workmen were efficient, kind, extremely polite and very helpful. [The person] said all the work was attended to quickly and done to a high standard and through all the stages AFM made the stressful job of relocating go very smoothly. [The person] has spoken to other people who have felt the same.	N/A	N/A	N/A	N/A
10 HD		Compliment 12.03.2007	Allocations	A thank you card sent to the Allocations section thanking them for the home the family were placed in	N/A	N/A	N/A	N/A

Scrutiny Committee
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(NB The Policy Council supports the Scrutiny Committee's objectives of developing a corporate approach which embraces the needs of our many customers. Furthermore, the Policy Council is broadly supportive of the thrust of the measures recommended to achieve these objectives. In this respect, developing a customer centred culture is at the heart of the initiative to "Develop our Public Sector" which is now in progress. The Council believes that, working with the Chief Officers Group, it will be able to better shape and deliver the objectives the Committee are seeking to achieve.)

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

The States are asked to decide:-

XIX.- Whether, after considering the Report dated 15th November, 2007, of the Scrutiny Committee, they are of the opinion:-

1. To note the progress that has been made since the Scrutiny Committee's Review on "*Complaints Policies and Appeals Procedures*", August 2005, as reported in the Committee's Monitoring Report, November 2007, which is appended to that Report.
2. To direct the Policy Council to take into account the Scrutiny Committee's recommendations set out above in Section 3 of that Report and to include appropriate actions under Priority 12 of the Government Business Plan.
3. To direct all Departments to take into account the Scrutiny Committee's recommendations set out above in Section 3 of that Report and to include appropriate actions in their Operational Plans for inclusion under Priority 12 of the Government Business Plan.

PUBLIC ACCOUNTS COMMITTEE

CONTROLLING EXPENDITURE ON OFF-ISLAND PLACEMENTS

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

30th November 2007

Dear Sir

1. Executive Summary

- 1.1 In 2005, the Public Accounts Committee (the Committee) presented a report to the States based on the findings of the National Audit Office (NAO) on "Controlling Expenditure on Off-Island Placements". The States noted the Report and resolved that the relevant Departments review their policies and procedures in relation to off-island placements and that the Committee should return to the States with an update on the progress made when appropriate.
- 1.2 Although the Departments involved indicated at the end of 2005 that some progress had been made, the Committee was concerned to learn that not more progress had been achieved, especially as the Departments had accepted the NAO recommendations (as reported in the Committee's 2006 Annual Report). As a result, the Committee commissioned the NAO to carry out a follow up review, which now forms the basis of this States' Report.
- 1.3 It is common practice to look for residential care outside a borough or authority where the local area has a lack of capacity or capability and, possibly as a result of this, costs per placement are rising nationally. Therefore, Guernsey is not alone in trying to contain and control costs and the pooling and monitoring of the budget along with setting up multi-disciplinary panels is the recommended way to achieve this.
- 1.4 In its report, the NAO indicated that it took two years to progress some of the recommendations contained in its original report, and a number were still being implemented this year. Potential savings had been identified but the Committee believes that the delay in implementation may have contributed to the costs not being contained.

- 1.5 The Committee is concerned that where potential savings have been identified, Departments are not implementing the recommendations quickly enough. Departments generally must become less protective, be proactive and act more corporately in order to be efficient, effective and economic in the provision of services.
- 1.6 The delay in setting up the Multi-Disciplinary Panels has resulted in negotiations for lower fees and other methods of controlling expenditure being deferred. It may also have impacted on the possible development of facilities in Guernsey. Some initiatives have occurred but there is more that can be done to improve care in Guernsey, and this is endorsed by the Government Business Plan. The Committee is supportive of the initiative to examine long-term funding mechanisms and the criteria for off-island placements.
- 1.7 The Committee concludes that there is still scope to achieve savings and now that the budget is temporarily ring-fenced, pooled and held by one Department, progress towards achieving the financial savings should begin to take effect. The proposed external review on Off-island Placements, to be commissioned by Health and Social Services Department and the Treasury and Resources Department, will cover future funding requirements.

2. Background

- 2.1 The Committee is mandated to examine whether public funds have been applied for the purposes intended by the States and to ensure that extravagance and waste are eradicated. To achieve this, the Committee commissions third parties to carry out reviews to ensure that the States of Guernsey achieves value for money.
- 2.2 As part of the contract with the States of Guernsey to provide value for money reviews, the NAO completed a review and report entitled “Controlling Expenditure on Off-Island Placements” in March 2004. The Committee ‘inherited’ the report from the Audit Commission and carried out its first hearing on the NAO findings in August 2004. The Committee then went on to produce its first value for money States Report which was presented to the States in February 2005 (Billet d’Etat II, 2005).
- 2.3 At this meeting, the States resolved:

Figure 1

“to recommend the relevant Departments to review their policies and procedures in relation to off-island placements in response to the Report’s conclusions, and to request the Public Accounts Committee to monitor such action taken by these Departments and to report back when appropriate.”

Source: Billet D’Etat II, February 2005, page 262

- 2.4 In September 2005, the Committee wrote to the Departments involved to ascertain the progress made one year after the first NAO report had been completed. The replies indicated that there had been little progress in implementing the NAO recommendations. The Committee reported this in its Annual Report contained in Billet d'Etat XIII, 26 July 2006.
- 2.5 Subsequently, the Committee commissioned the NAO to carry out a follow up review, building on its research and contacts in this area.
- 2.6 This report sets out the progress made by the relevant Departments since the first review was carried out in 2004.

3 General Overview of Non-local Placements

- 3.1 The Health and Social Services Department (and in conjunction with the Education Department as far as young people and children are concerned) deals with off-island placements, encompassing adults, young people and children with mental health and learning disabilities and children with disruptive, learning or behavioural problems, (including sensory impairment and severe autism).
- 3.2 Off-island placements arise when such adults and children are sent:

Figure 2

“..to placement centres off-island in cases where adequate treatment or support is not available on-island.”

Source: NAO Report on “Controlling expenditure on off-island placements” follow up report for Public Accounts Committee, January 2007, page 4

- 3.3 The requirement for such placements is common elsewhere and is not unique to Guernsey as a result of it being an island. Although the Health and Social Services Department has indicated that the Isle of Man has similar problems to that experienced by Guernsey, Jersey does not. UK authorities also provide “out of area” placements as a result of a lack of local capacity or capability¹, even though they are generally serving larger populations and have economies of scale.
- 3.4 However, in an article on reducing “out of area” placements², the author, Tony Ryan, admits that ongoing effort is required to maintain a process in managing local service systems and that there is no easy quick fix, particularly if local provision is limited and the number of out of area placements is high. He added that it was possible to manage costs and reduce risk of future overspend through

¹ Chapter Six of Developing and Managing the Market, “Reducing the need for out of area placements through managing local whole service systems” by Tony Ryan, Care Services Improvement Partnership

² Ibid 1

developing a whole system where a number of organisations work together rather than as a dispersed collection of loosely aligned service providers.

- 3.5 The UK Audit Commission has recently published the findings of a review on “out of authority” placements for special educational needs³. Although focusing on special educational needs in independent and non-maintained special schools inside or outside the council area, it does indicate that Guernsey is not alone in facing the problem of increasing expenditure mainly as a result of higher costs per case.
- 3.6 However, Guernsey by comparison with Jersey and the Isle of Man, spends a great deal more per annum on off-island placements due to the lack of on-island resources. In 2002, Jersey, through a trust, established Silkworth Lodge, a centre for substance misuse comprising a 12 bedded residential facility. At the present time, this has been made available to Guernsey clients where space has permitted. The Isle of Man provides rehabilitation services through its Department of Health and Social Security, but also uses facilities off island extensively for drug and alcohol placements. Jersey will send individuals to the UK, whenever space or expertise are not available locally.
- 3.7 There will always be instances where the Island is unable to provide the care and support required to certain individuals in the community as a result of a lack of suitable resources locally. Additionally, it may not be appropriate to provide on-island treatment for certain cases, even if the resources did exist.

4. Summary of Main Findings and Recommendations in the first NAO Report (March 2004)

- 4.1 In its initial report dated March 2004, the NAO was tasked with examining whether there were adequate controls on expenditure, proper scrutiny given to proposals for off-island placements and whether the results of off-island placements delivered the required benefits.
- 4.2 The NAO concluded that:
 - expenditure on off-island placements had not been sufficiently well controlled;
 - proposals for off-island placements were not always subject to sufficient scrutiny;
 - more could be done to reduce the number and cost of off-island placements; and

³ Audit Commission “Out of authority placements for special educational needs” Local Government National report, February 2007.

- off-island placements were kept under review whilst in progress, but longer term success rates were not known.

4.3 The recommendations following that review and endorsed by the Committee and the States were:

- reducing the number of committees involved in funding off-island placements;
- setting one States-wide budget for off-island placements, creating a pooled ring-fenced budget;
- closely monitoring expenditure on off-island placements, including travel and subsistence expenditure;
- establishing multi-disciplinary panels to scrutinise proposals for off-island placements;
- developing facilities on-island where justified on grounds of cost and better care;
- continuously reviewing off-island placements to ensure that the desired outcomes are achieved.

4.4 The Committee believed there was an opportunity to save on costs by introducing new locally provided placements and support and reviewing the then current arrangements for referral and monitoring. Savings of £1m were identified by the NAO as being achievable by the third year of the new arrangements.

4.5 Both the Education and Health and Social Service Departments indicated their support for the proposals as evidenced at the end of the Committee's States' Report.⁴

5 Progress by September 2005

5.1 The Committee wrote to the Chief Officers of Education, Treasury and Resources, and Health and Social Services Departments on 22 September 2005 for an update on the progress made in relation to the NAO and Public Accounts Committee reports. This was thirteen months after the hearing on off-island placements had taken place.

5.2 The Treasury and Resources Department responded that it was supportive of the proposal for a **pooled ring-fenced budget** for off-island placements and that all but the Education Department's budget in this area had become the

⁴ Billet D'Etat II, February 2005, page 260-261

responsibility of the Health and Social Services Department. It encouraged Departments to use SAP to record the total cost of off-island placements and supported the Committee in reviewing and monitoring expenditure on off-island placements.

5.3 In its response of 7 October 2005, the Education Department indicated that it had focused on three areas, that of:

- reviewing policies and procedures, and implementation of the Special Educational Needs Code of Practice;
- developing joint working practices with the Health and Social Services Department. Documents had been completed and an inter-agency panel was ready to operate pending the provision of an administrator and agreement on the merging of the two budgets;
- developing improved facilities on-island. Nurture groups for 5-7 year olds were established in three mainstream schools and at Granville House and Education Support Services re-located to Le Rondin Centre.

5.4 The response received from the Health and Social Services Department stated that proposals for three multi-disciplinary panels were being considered for children and young people, adult mental health and adult disability. By November 2005, only the working party relating to the children and young people had discussed how that particular panel would operate. All three panels were to be serviced in administrative terms by a Panel Administrator, paid for from the off-island placement funding but, at that time, the staffing establishment had yet to be finalised.

5.5 The Health and Social Services Department admitted that it had not reviewed policies and procedures in relation to off-island placements mainly due to staff changes and pressure of other work, but discussions had commenced with the Education Department and a combined list of placements had been drawn up prior to the amalgamation of budgets.

5.6 When the Committee analysed the responses, although full of good intentions, progress had been slow and it reported these concerns in its 2006 Annual Report as follows:

Figure 3

“The Committee was disappointed to learn that, despite the severe financial constraints in both Departments, there has been little activity in changing the way they operated off-island placements.”

Source: Billet D’Etat XIII, 26 July 2006, page 1545

- 5.7 The Committee indicated that it had commissioned a follow-up review to bring the matter back to the States. As already stated, the Committee commissioned the author of the first report, the NAO, to carry out this work.

6 Summary of Main Findings and Recommendations of Recent Report

- 6.1 The NAO has concluded in its recent report that progress was slow and it took two years before its original recommendations within the first report were acted upon. It identified the main reasons attributing to the delay as the changes following the machinery of government reorganisation, staff turnover and reaching agreement on the budget⁵.
- 6.2 The Committee is concerned that the relevant Departments did not expedite the recommendations contained in the first report quickly enough, especially at a time when the States are committed to achieving value for money.
- 6.3 The 2007 Interim Financial Report⁶ indicated that the Treasury and Resources Department used its delegated authority to increase the budget of the Health and Social Services Department by £675,000 to cover the increased expenditure on off-island placements.
- 6.4 The Committee has concluded that the delay in implementing the recommendations in the original NAO report may have been one of the factors contributing to the continued increasing cost of providing off -island placements.**
- 6.5 Health and Social Services Department, in response, has indicated that the numbers of off-island placements since 2004 have reduced by ten, but costs have increased therefore it appears that earlier implementation would have been unlikely to contain costs.**
- 6.6 The Education Department has also informed the Committee that the delay was attributed to ensuring sufficient safeguards existed for protecting the budget for all children with special needs in advance of any decision being taken about their leaving the Island.**
- 6.7 The rest of this section indicates the progress made since 2004 in implementing the recommendations.

⁵ NAO Report on Controlling Expenditure on Off-island Placements, January 2007 page 10 paragraph 17.

⁶ Billet d'Etat XIX, 25 July 2007, page 1570 and appended 2007 Interim Financial Report page 4

6.8 Expenditure on off-island placements

- 6.8.1 Expenditure in relation to off-island placements continues to increase, having almost quadrupled over the last ten years, from £1.84m in 1998 to £6.8m in 2006⁷. Against this, the number of placements has decreased, indicating an increase in the average cost, with more of the higher cost placements being supported.

Figure 4

Year	Cost of off-island placements £ million	Number of off-island placements	Average cost of each placement £000
1998	1.84	60	30.7
1999	2.09	65	32.1
2000	2.98	74	40.2
2001	3.41	77	44.3
2002	4.30	80	53.7
2003	4.85	105	46.0
2004	4.95	105	47.1
2005	5.41	98	55.2
2006	6.80	95	71.6

Source: NAO Report on Off-Island Placements, part of figure 1 on page 7 and updated with data from Health and Social Services and Education Departments.

- 6.8.2 In 2006, the trend continued and the actual amount spent on 95 off-island placements was £6.8m, averaging £71,583 per placement with a further £7,218 spent on 19 on-island cases through the pooled budget.
- 6.8.3 The trend of increased cost per placement is common across the UK and the Audit Commission stated that the budgets are often overspent⁸. In 2006, States expenditure on off-island placements was some £2m above budget for Health and Social Services Department (at £6m) and 10% below budget for the Education Department. With an expected spend of £7.5m during 2007, including administration costs, this represents 8.6% of the Health and Social Services Department's total budget.
- 6.8.4 The Committee believes that, although the average cost per placement is higher, this is not the only contributor to the increased costs. The NAO March 2004 report indicated areas in which savings and efficiencies could be made. **The delay in implementing them**, (the NAO indicated that it took two years to get

⁷ Updated actual figures on the estimated quoted in the NAO Report.

⁸ Audit Commission "Out of Authority Placements for Special Educational Needs" Local Government National report, February 2007, page 13

the key mechanisms in place), **has resulted in not achieving control over and the monitoring of costs.**

6.8.5 In its letter responding to the request for an update in September 2005, the Health and Social Services Department indicated it had not been possible to initiate implementation of the recommendations due to staff changes. Responsibility for implementation was re-delegated following a general re-organisation at Health and Social Services Department.

6.8.6 The Committee considers that this delay may have jeopardised efficiency savings for the Health and Social Services and Education Departments. If the changes had been brought in earlier, Guernsey could also have achieved more by removing some of the duplication of activities which were in place to the end of 2006.

6.8.7 **The Committee is concerned that where potential savings are identified that Departments do not consider and implement them expeditiously.** This is particularly worrying where the Departments concerned are the States' highest funded and resourced, both financial and staffing, and where the States have agreed to direct further funds.

6.8.8 The Committee will continue to monitor expenditure with regard to off-island placements.

6.9 Progress in pooling the budget and improving the monitoring of expenditure

6.9.1 In 2004, the NAO recommended the budgets for all off-island placements be pooled and monitored by one Department, (following the change in structure resulting from the Machinery of Government). It also suggested that the final budget be ring-fenced.

6.9.2 When the review was first carried out in 2004, there were four States' committees involved, often resulting in complex and time-consuming cross committee allocation of charges. Initially there was a budget for off-island placements held by the Health and Social Services Department, with transfers to the budget in May 2004 by the Children Board following the government reforms, in 2005 by the Social Security Department and, with effect from January 2007, the Education Department.

6.9.3 In September 2005, the former States Treasurer indicated his support for ring-fencing the pooled budget for off-island placements. Reaching agreement on the final arrangements of the proposals delayed the implementation process and the resultant efficiency savings. In the recent NAO report, it stated that the budget had not been ring-fenced. This meant that the funds could be diverted to other areas of expenditure by the budget holder and could encourage greater savings

or reduced services in off-island placements as other more preferred areas are financed.

- 6.9.4 In October 2006, the Health and Social Services Department and the Education Department signed a Memorandum of Understanding which described the basis upon which a transfer of funding for off-island placements was to be made. It also encompassed a framework for work within the two Departments by clarifying respective roles and responsibilities.
- 6.9.5 A sum of £900,000 for 2007 was initially transferred from the Education Department to the Health and Social Services Department, to cover fees and travel costs. As a result of this transfer, the latter Department has become responsible for managing and monitoring the “pooled” budget.
- 6.9.6 As part of the Memorandum of Understanding, the two Departments agreed that the Health and Social Services Department would provide the administration requirements of the Complex Needs Panel, including servicing the Panel and follow-up administration requirements such as arranging and paying for travel for parents, clients and the professionals involved. Therefore, an additional transfer in the amount of £9,000 took place to cover these activities. This should eliminate the need for cross-departmental charging, thereby reducing administration time and associated staff costs. However, although there was the transfer of funds from the Education Department to Health and Social Services Department, there was no transfer of establishment.
- 6.9.7 Although the amalgamation of the budgets was to eliminate the bureaucratic and time-consuming recharging of expenditure, the NAO has reported in paragraph 11 on page 9 of its report, that the Departments continue to operate independently in monitoring their expenditure. At the time of the recent review there was still no overall monitoring of total States expenditure on off-island placements, although progress had been made in identifying travel and subsistence costs. Health and Social Services Department has indicated that this has now been achieved since the budget has been pooled.
- 6.9.8 The indications are that resultant funding arrangements for off-island placements continued to cause problems for Health and Social Services Department in 2007 as it struggles to contain costs within its budget allocation. In the budget report for 2008, Billet XXIII, 28 November 2007, the Treasury and Resources Department has indicated that it will ring-fence the budget for 2008 but only whilst a jointly commissioned review is carried out on the criteria for assessing off-island placements and on whether better value for money would be achieved from providing specialist facilities on island. The review will also focus on the most appropriate long-term funding mechanism for off-island placements bearing in mind the need to always achieve value for money.
- 6.9.9 The Committee is pleased to note this proposal and also the action taken by the Health and Social Services Department to contain costs by outsourcing some

off-island reviews. Not only does this achieve savings in travel and subsistence but also releases departmental Social Workers to focus on on-island cases.

6.10 Progress in setting up Multi-disciplinary Panels to review and authorise all proposals for off-island placements

6.10.1 In 2004, the NAO reported that each of the four committees had differing procedures in authorising placements and that an inter-agency working party had actively considered setting up a panel to review cases before off-island placements were allocated.

6.10.2 The 2004 report promoted the setting up of multi-disciplinary panels, which were standard practice in UK local authorities, in assessing the needs of those with mental health problems and learning disabilities. The NAO report provided examples of how the multi-disciplinary panels would work and the benefits that would be achieved. It also stated that the multi-disciplinary panels would lead to better control over expenditure on off-island placements and improved consideration on the care option for each client. This, in turn, would lead to fewer off-island placements and more treatment on-island.

6.10.3 Although there was agreement with the recommendation, the multi-disciplinary panels were not set up until 2006. The NAO sets out the reasons for the delay in its recent report, **but the setbacks in implementation will have cost the States efficiency and possibly financial savings.** Even now the multi-disciplinary panels have not addressed all issues and have not fully considered ways to reduce costs. However, the Committee has noted that the Education Department is confident that the closer working practices developed during 2006 and 2007 with Health and Social Services Department are of benefit to children and young people and their families.

6.10.4 The Committee believes that the late introduction of multi-disciplinary panels prevented value for money from being achieved at an earlier stage – but now that they are set up, it looks forward to seeing how they develop and achieve the anticipated efficiencies and savings as well as considering the right care and placement for each case.

6.10.5 The original report in 2004 compared the practices in Guernsey with those in Isle of Man, Jersey and the UK. The report quoted examples where savings were likely to be achieved in other jurisdictions, such as Jersey negotiating a service level agreement with a UK provider. At the time of the follow up report, Guernsey had not acted on achieving similar savings, although had since met at an Inter-Island meeting (involving Isle of Man, Jersey and Gibraltar) where off-island placements had been a topic under discussion.

6.10.6 Health and Social Services Department has informed the Committee that this meeting confirmed that Gibraltar and Isle of Man had similar problems to Guernsey (although not Jersey which had invested more on on-island services).

In addition, in order to confirm that its assessment of the placements was correct, Health and Social Services Department forwarded a number of anonymised cases of off-island placements to the other jurisdictions to ascertain how they would have dealt with them and a response to these is still awaited.

6.10.7 The Department was in the process of discussing the possibility of further fee rate discounts with certain providers, but was taking care to ensure that the return warranted the time and effort spent on negotiation.

6.10.8 **The Committee agrees that the multi-disciplinary panels should consider ways of negotiating placements and provide greater control over fee rates, keeping a record of the estimated savings achieved by their interventions.**

6.11 Progress in developing facilities on-island

6.11.1 In 2004, the NAO recommended that sending people off-island needed to be seen as a last resort after all other options had been exhausted and that children should not be sent off-island unless absolutely necessary. It recommended that one of the first tasks of the multi-disciplinary panels was to identify where there was scope to improve facilities in Guernsey cost-effectively so as to reduce the need for off-island placements.

6.11.2 Progress has been made in investigating and developing new facilities, albeit in isolation, as part of other initiatives driven by the Departments.

6.11.3 The Education Department has made substantial progress in its ambitious plan to develop its school structures integrating facilities for children with difficulties who may in the past have been sent off-island. Le Rondin is well under way with the development of special education across the Primary sector and Le Murier, the other main development for special needs for Secondary sector at the Les Nicolles site, will be completed in 2009. The Education Department has drawn attention to other initiatives including:

- proposed developments at Oakvale as an SEBD Centre;
- implementation of the revised SEN Code of Practice;
- proposed development of a Communication and Autism base at Les Beaucamps and then at St Sampson's High;
- increased awareness for staff in teaching pupils with Special Education needs; and
- nurture groups.

6.11.4 The multi-disciplinary panel in relation to children and young persons is the most developed and will have the opportunity to achieve savings earlier, using the new facilities and initiatives to reduce the number of children and young

people off-island and, more importantly, keeping them close to their family, home and community.

6.11.5 The Committee believes that greater long term efficiencies can be achieved by focusing initiatives at the younger age groups, thus reducing or preventing life time support.

6.11.6 The Health and Social Services Department has made progress to directing funds to retain individuals in the community who in the past would have been placed off-island. In its operational plan contained within the 2007 Government Business Plan, the Department anticipates improving facilities in Guernsey by providing an additional community home in 2009 at a capital cost of £1.5m and annual revenue cost of £381,000 but achieving savings in off-island placements of £315,000.⁹

6.11.7 Since the first report was produced in 2004 the States have committed themselves to a Business Planning process which sets out key themes and priorities for the next five years. One of the key themes within the Plan is;

Figure 5

“to maintain Guernsey as a strong and caring community, where respect for individuals flourishes, and where the needs of all members of the community, including vulnerable groups, are provided for.”

Source: Billet D’Etat XIX, 13 December 2006

This indicates that the States are supportive of the development of facilities in the Island to prevent or reduce off-Island placements.

6.11.8 The Committee notes that there is the intent to explore whether further facilities on the Island are needed through the jointly commissioned review between Health and Social Services Department and Treasury and Resources Department.

7 NAO Recommendations

7.1 This recent follow up review by the NAO indicated the progress made on implementing the recommendations arising from the first NAO review in 2004. It restated the outstanding recommendations and added some others. Appendix I replicates the table found in the NAO Report (page 14) on the first review but also includes the recent reviews recommendations and adds the progress made since the review was completed at the beginning of the year and areas that still are being worked on.

⁹ Billet d’Etat XVIII, 25 July 2007, Appendix III, page 91

- 7.2 Health and Social Services Department is making much progress in implementing the recommendations and is still developing the processes and procedures of the multi-disciplinary panels and is continuing to explore ways of developing care on island.

8 Conclusions

- 8.1 The Committee held its first hearing on the NAO Report on off-island placements in August 2004 and presented its first report based on this hearing to the States in February 2005. Although the NAO recommended a further brief review later on, the fact that it appeared that little had been activated over a year later brought this review forward.
- 8.2 In early 2007, the NAO concluded:

Figure 6

“Our overall conclusion is that, **after a long delay, progress has been made to improve the monitoring and control of expenditure on off-island placements. A pooled budget has been agreed for 2007 and three multi-disciplinary panels have recently been established to review and authorise proposed placements. However, it has taken more than two years to get these key mechanisms in place.** In the meantime, the total cost of off-island placements has continued to rise, generally because of the increasing cost of placements.”

Source: NAO Report on “Controlling expenditure on off-island placements” January 2007, page 4

- 8.3 The Committee is concerned that expenditure may have been unnecessarily spent due to the slowness in considering and implementing the recommendations of the first report, especially where that inactivity resulted in the revenue expenditure budget for Health and Social Services Department being increased to cover the shortfall attributed to off-island placements. The deficit was less than the predicted savings by the NAO.
- 8.4 In general, Departments should activate recommendations as early as practicable in order to ensure that identified savings and value for money are achieved as soon as is possible. **Delaying the implementation of recommendations may result in the States spending more money and not controlling costs.**
- 8.5 There will always be a need to care for some local residents off island due to the nature of their illness or the lack of appropriate, available or suitable facilities and other resources in the Island. But in other instances, cases are sent off island which could be cared for on-island if adequate resources and facilities were developed.

- 8.6 Health and Social Services Department has taken over responsibility for off-island placements administratively and financially, and will continue to work with the Treasury and Resources Department on resolving the way in which off-island placements are funded.
- 8.7 The jointly commissioned review examining off-island placements will build upon the work carried out by this Committee and take this important area to the next phase in order to achieve better value for money.
- 8.8 In view of the delay of implementation of the original proposals and in light of the further review, the Committee will revisit this area in 2010.

9 Recommendations

- 9.1 The Committee recommends the States:
- a) To note the report.
 - b) To direct the Health and Social Services Department to continue to progress the recommendations of this report in order to achieve greater value for money.
 - c) To direct the Committee to monitor and review the action taken by the Health and Social Services Department and to carry out a full review in 2010.

Yours faithfully

Chris Brock
Vice Chairman

Please note that, due to conflict of interest, the following members of the Public Accounts Committee have not participated in the process leading to the production of this report:

Deputy Leon Gallienne

Reason: Spouse's employment

PROGRESS AGAINST RECOMMENDATIONS

Appendix I

Figure 6 contained with the NAO report on page 14 records the progress made against each of the recommendations in the NAO report of April 2004 and against the conclusions of the Public Accounts Committee report to the States in February 2005. This has since been updated to reflect the recommendations in the January 2007 NAO report and progress made to implement them by the lead department, Health and Social Services Department during 2007.

Figure 7: Progress made by Health and Social Services Department and Education Department against previous and current NAO Recommendations and PAC Conclusions

2004 NAO Recommendation or 2005 PAC Conclusion	Progress Made by end 2006	2007 NAO Recommendation	Progress Made during 2007
On the need for fewer committees to be involved in funding off-island placements			
NAO 1. Funding arrangements, procedures and practices need to be more consistent between the different committees involved.	Achieved. The Machinery of Government changes of May 2004 reduced the number of States bodies involved from four Committees to two Departments: Education; and Health & Social Services. From June 2006 the two Departments have contributed jointly to a multi-disciplinary panel for children and young persons and from January 2007 have agreed to pool their budgets for off-island placements (see below). A Memorandum of Understanding has also been agreed between them		
NAO 2. Social cases previously funded by the Guernsey Social Security Authority should be the responsibility of the Board of Health.	Achieved. All placements and associated budgets have been transferred to the Health and Social Services Department from the Social Security Department.		

NAO 3. Re-charging of costs between committees is inefficient and should be avoided as far as possible. This problem should reduce to some extent with the amalgamation of the Board of Health and the Children Board from May 2004.	Achieved. The amalgamation of the Children Board with the Board of Health and the transfer of all Social Security cases to the Health and Social Services Department eliminated much of the re-charging which previously took place. From January 2007, pooling of the Education and Health & Social Services Departments' budgets should eliminate any remaining need for re-charging.		
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On the need for a States-wide budget for off-island placements			
NAO 4. A pooled, ring-fenced budget should be used for all off-island placements (one for adults and one for children).	<p>Achieved. The off-island placements budgets of the former Board of Health, Children Board and Social Security Authority have been pooled within the new Health & Social Services Department. From January 2007 the budgets of the Education and Health & Social Services Departments will also be pooled. The pooled budget will sit with the Health & Social Services Department. It will not, however, be ring-fenced. Spending on off-island placements will therefore have to be weighed up against other spending priorities within an overall cash limit.</p>		<p>Although the indications were that the pooled budget would be ring-fenced, this was not done straight away.</p> <p>Health and Social Services Department have indicated that they were concerned that this key recommendation was changed without consultation particularly given the cost pressures that have resulted in this area since the publication of the report.</p> <p>Treasury and Resources Department have since indicated that the pooled budget will be ring-fenced for 2008 whilst a jointly commissioned review is carried, which will involve long-term funding initiatives.</p>
PAC (a). We strongly endorse the proposal to create a pooled ring-fenced budget for off-island placements.			

On the need for expenditure on off-island placements to be more closely monitored			
NAO 5. The total cost of off-island placements needs to be brought together so as to enable better monitoring and to identify significant trends.	Not yet achieved. However, the pooling of budgets from January 2007 referred to above will allow better monitoring to be achieved from 2007.	NAO 9a. Overall expenditure on off-island placements should be closely monitored to keep control over costs and to identify significant trends in expenditure.	Achieved. During 2007, Health and Social Services Department have made changes to enable them to: <ul style="list-style-type: none"> • Report more accurately • Identify trends • Identify statutory costs
PAC (b). The total cost of off-island placements, including travel and subsistence expenditure, must be brought together and monitored.			
NAO 6. All travel and subsistence expenditure should be identified and monitored as it adds significantly to the costs of the placements themselves.	Achieved. Previously the former Board of Health did not separately identify travel and subsistence expenditure on off-island placements (whereas the other committees involved did so). This anomaly has since been rectified by the Health & Social Services Department.		
NAO 7. Committees need to be aware of how much staff time is spent dealing with off-island placements and what this effort costs, both in cash terms and its impact on the delivery of services in other areas.	Partly achieved. The two Departments that continue to deal with off-island placements are aware that a great deal of staff time is spent on this area, but do not maintain records of the time involved or its cost. The Health and Social Services Department has been examining some initiatives to try to reduce such expenditure.		Partly achieved. Further achievement of this recommendation could be progressed by Health and Social Services Department staff keeping an Audit Diary/log for – <ul style="list-style-type: none"> • Approved social workers • Looked after children team • Initial Assessment and social work team • Adult Disability Services

NAO 8. The anomaly needs to be corrected whereby some patients may be asked to contribute towards the cost of their placements whilst others with similar means are not.	Achieved. Now that the responsibility for patients previously funded by the Social Security Department has been transferred to the Health & Social Services Department, a consistent approach is adopted. Neither of the two remaining Departments involved, ie Education and Health & Social Services, seek a contribution from anyone who benefits from an off-island placement.		
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On the need for better scrutiny of proposals for off-island placements

NAO 9. A formal system is needed for ensuring that proposals for off-island placements meet laid down criteria - such as need, consideration of alternatives and expected outcomes - before they are approved.	Achieved. Three multi-disciplinary panels have been set up to examine and authorise all proposals for off-island placements. A children and young persons panel and an adult mental health panel had their first meetings in June 2006 and an adult disabilities panel became operational in July 2006.		
NAO 10. A multi-disciplinary panel should be established to examine and authorise all proposals for off-island placements.			
PAC (c). We fully support the proposal to establish multi-disciplinary panels to examine and decide upon all proposals for off-island placements.			

<p>PAC (d). Given the pivotal role envisaged for the panels, it is important that the lines of accountability and responsibility are clearly defined and that the authority of the panels for making decisions is understood and accepted by the parties concerned.</p>	<p>Achieved. All three panels have established principles, aims and objectives, membership, processes, funding arrangements, review procedures, urgent referrals and appeals mechanisms, and reporting arrangements.</p>		
<p>NAO 11. The multi-disciplinary panel should be tasked to:</p> <ul style="list-style-type: none"> • identify emerging problems at an early stage and take appropriate action in good time, with the aim of obviating the need for more expensive treatment later on; • say yes or no to individual off-island placements on the basis of a full discussion amongst experts; • keep track of the progress and success or otherwise of individual placements; • build up a database of suitable placement centres and the results achieved; • identify trends and establish whether developing better facilities on island would be a more cost-effective option for groups of similar cases. 	<p>Not yet achieved. The panels have been in operation only since the middle of 2006 and have yet to address the more wide-ranging issues.</p>	<p>NAO 9b. As well as authorising and approving proposals for individual placements, the multi-disciplinary panels should adopt a wide-ranging brief to:</p> <ul style="list-style-type: none"> • identify emerging problems at an early stage and take appropriate action in good time, with the aim of obviating the need for more expensive treatment later on; • keep track of the progress and success or otherwise of individual placements • build up a database of suitable placement centres and the results achieved; and • identify trends and establish whether developing better facilities on-island would be a more cost-effective option for groups of similar cases. 	<p>Partly achieved.</p> <p>Health and Social Services Department have indicated that it is not possible for the panels to do this in isolation and that they require operational engagement along with operational managers, but they accept the point.</p> <p>Health and Social Services Department agree to track the progress through their review process.</p> <p>Health and Social Services Department have commenced assessing outcomes of placements and establishments visited by professional staff.</p> <p>Health and Social Services Department have indicated that this commenced when the 3 panel client categories were identified. Each client is categorised into one of the groups when considering placements.</p>

NAO 12. The multi-disciplinary panel should consider ways of negotiating placements which provide greater control over fee rates.	Not yet achieved. However, the Health and Social Services Department is currently seeking to obtain discounts on fee rates through a preferred provider arrangement with one particular group as a way of reducing costs.	NAO 9c. The multi-disciplinary panels should consider ways of negotiating placements which provide greater control over fee rates.	Partially achieved. Health and Social Services Department met with some providers to discuss additional discount rates in October 2007 over and above those already achieved. Health and Social Services Department were pessimistic on the outcome due to it being a sellers market.
PAC (e). We look to the multi-disciplinary panels to achieve better control over expenditure on off-island placements.		NAO 9d. The multi-disciplinary panels should keep a record of the estimated savings achieved by their interventions.	Achieved. Health and Social Services Department have indicated that this has been done to record savings in respect of those that have returned to the island.
PAC (f). Where there is no option but to send people off-island we look to the panels to seek ways of reducing the costs of doing so.			

On the need to develop better facilities on island where this can be justified on grounds of cost and better care			
NAO 13. Sending people off-island needs to be seen as a last resort after all other options have been exhausted. Children should not be sent off-island unless absolutely necessary.	Not yet achieved. Both the Education and Health & Social Services Departments recognise the important principle of not sending people off-island unless absolutely necessary. However, further action is dependent on the development and exploitation of better facilities on island.		Achieved - Health and Social Services Department have confirmed that off-island placements are a last resort after all other options have been exhausted.
NAO 14. Except where there is no alternative, UK centres should not be used for treating Guernsey patients with alcohol problems until their effectiveness for Guernsey patients has been established.	Achieved. It is now the standard practice of the Health and Social Services Department to refer drug and alcohol misuse clients to Silkworth Lodge in Jersey. This route is much more cost-effective than the previous practice of referring such clients to the Marchwood Priory Hospital in the UK.		Health and Social Services Department are currently assessing whether the success rate for referrals constitutes value for money for this provider.

NAO 15. One of the first tasks of the multi-disciplinary panel should be to identify where there is scope to improve facilities in Guernsey cost-effectively so as to reduce the need for off-island placements.	Not yet achieved. This issue of identifying the scope for improved facilities on island has yet to be addressed by the panels as they have been in operation only since the middle of 2006.	NAO 9e. Departments should continue to look for cost effective opportunities to develop facilities on-island.	Not yet achieved. Health and Social Services Department have indicated that this can not be accomplished by the panels alone and that it should be carried out in consultation to those providing on-island placements.
PAC (g). The multi-disciplinary panels should also take a leading role in identifying where facilities can be cost-effectively developed in Guernsey to obviate the need for expensive off-island placements.			
PAC (h). We welcome what is now being done to develop facilities in Guernsey for certain categories of adults and children who are currently sent to the UK.	Partially achieved. Despite the delay in setting up the multi-disciplinary panels, some progress has been made in developing better facilities on island for certain client categories. New initiatives include the establishment by the Education Department of nurture groups for 5-7 year olds and facilities at Granville House for pupils with behavioural, emotional and social difficulties; and the development by the Health and Social Services Department of more on-island provision for people with drug and alcohol problems.		
NAO 16. Notwithstanding the general advantages of treating patients in Guernsey, committees must continue to recognise that there will sometimes be no option but to send people off island, either because of the special nature of a particular case or because the necessary facilities cannot be provided cost-effectively in Guernsey.	Achieved. Both the Education and Health & Social Services Departments continue to recognise this important point.		

NAO 17. Options for treating alcohol and drug problems and eating disorders on island need to be urgently explored.	Partially achieved. As noted above, there is now more provision on island for people with alcohol and drug misuse problems. The appointment in September 2006 of a consultant psychiatrist specialising in eating disorders will provide a first point of contact in such cases.		Partially achieved. Health and Social Services Department continue to send some placements off Island as they have problems in recruiting drug and alcohol psychiatrist and have to consider resourcing this area against all other areas within Health.
NAO 18. All committees must work more closely together to reduce the number of children that need to be sent off-island.	Not yet achieved. However, The Education and Health & Social Services Departments are now working much more closely together on this issue, facilitated by the establishment of the children and young persons panel, staffed by representatives of both Departments.		Partially achieved. Health and Social Services Department have agreed that operational cohesiveness is essential, but have indicated the comment relates to only one element of the process.
		NAO 9f. Departments should assess the effectiveness of their initiatives to develop better facilities on-island, in terms of the financial savings that have been secured and the improvements in the quality of care that have been achieved.	Not achieved yet. Health and Social Services Department have acknowledged that this remains the main objective of the multi-disciplinary panels that has yet to be fully implemented.

On the need for off-island placements to be kept under review

NAO 19. All proposals for off-island placements should set out how the placements are to be reviewed and by whom, with a focus on determining whether the required standards of care are being delivered and whether the benefits expected from the placement are being secured.	Achieved. The establishment of the multi-disciplinary panels will also help to ensure that monitoring and review procedures are clearly set out for each proposed placement. The Health and Social Services Department has outsourced some 50 per cent of off-island reviews.		
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NAO 20. Completed placements should be followed up to assess their success in the longer term.	Not yet achieved. This will be a task for the multi-disciplinary panels.		Partially achieved. Health and Social Services Department have begun assessing the outcomes at one of the providers in order to consider the cost effectiveness of the placements, retrospectively.
PAC (i). We consider that the panels should seek to evaluate the outcome of off-island placements, both in the short and longer term			

General			
PAC (j). The Departments concerned should draw up an action plan to respond to the conclusions in this Report and that of the National Audit Office.	Achieved. Although no formalised action plans have been prepared, both Departments have been monitoring progress in meeting the recommendations and conclusions of the NAO and the PAC.		

(NB The Public Accounts Committee has agreed to a request from the Health and Social Services Department to attach the following letter to its States Report.)

Deputy C Brock
Vice Chair
Public Accounts Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
GY1 1FH

13 December 2007

Dear Deputy Brock

Public Accounts Committee report on off island placements – 30th November 2007

The recommendations of the original NAO report on the way forward were proposed by Health and Social Services Department (HSSD) staff. These included some that were being actively pursued at that time. It is a well recognised fact that when staff acknowledge the need for change, identify strategies to improve the situation and take ownership of the problem, it is highly probable that an outcome will be achieved. This level of commitment and drive has not changed, if anything the HSSD has heightened its awareness amongst staff to attempt to achieve the recommendations of the NAO report.

To imply that we have been tardy in our efforts is both unfair and unacceptable as, despite the aforementioned commitment, the additional resource constraints of a capped budget and establishment (through the Staff Number Limitation Policy) was always going to be a barrier to meeting the challenges outlined in the recommendations.

As recognised in the report, the Machinery of Government changes in 2004 necessitated significant organisational changes within the HSSD's services. In addition, the Service Contracts Manager left the organisation shortly afterwards and there was a 4 month delay in securing a suitable replacement. This is the post that manages off-island placements.

In addition to the administrative work, resourcing the respective panels has created extra work for staff who are already gainfully employed in other full time HSSD positions, as the panels have to include representatives of the various professions involved. In some of these areas, there are significant recruitment difficulties. For example, in adult psychiatry, there has not been a full establishment of staff for a number of years.

There is also an assumption in the report that more on-island facilities mean a cheaper service. This is not necessarily the case. Where it is, the HSSD has either taken action, eg employing one additional member of staff to avoid several off-island placements, or is investigating the resources needed to provide a local service. However, such work again takes professional staff away from their full-time jobs of providing direct services to the public and the possible benefits have to be balanced against the clear losses of local people not receiving existing services or having to wait longer to access them.

Finally, the HSSD considers that the report is unbalanced. It fails to recognise the size of the task in changing the culture from one where clinicians could make unilateral decisions regarding off-island placements to one where they are challenged and a more corporate approach is taken.

Yours sincerely

P J ROFFEY
Health and Social Services Minister

(NB The full National 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:-

XX.- Whether, after consideration of the Report dated 30th November, 2007, of the Public Accounts Committee, they are of the opinion:-

1. To note the Report.
2. To direct the Health and Social Services Department to continue to progress the recommendations of that Report in order to achieve greater value for money.
3. To direct the Public Accounts Committee to monitor and review the action taken by the Health and Social Services Department and to carry out a full review in 2010.

ORDINANCES LAID BEFORE THE STATES

**THE INCOME TAX (TAX RELIEF ON INTEREST PAYMENTS)
(GUERNSEY) ORDINANCE, 2007**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007, made by the Legislation Select Committee on the 3rd December, 2007, is laid before the States.

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

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007, made by the Legislation Select Committee on the 3rd December, 2007, is laid before the States.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE DRIVING TESTS (INCREASE OF FEES) REGULATIONS, 2007

In pursuance of section 2B (e) of the Motor Taxation and Licensing (Guernsey) Law, 1987, the Driving Tests (Increase of Fees) Regulations, 2007, made by the Environment Department on 31st October, 2007, are laid before the States.

EXPLANATORY NOTE

These regulations set the fees that are chargeable for tests of competence to drive with effect from 1st January, 2008, by increasing approximately by RPI the current fees that are set out in Schedule 2 to the Driving Licences (Guernsey) Ordinance, 1995, as amended.

THE WATER CHARGES (AMENDMENT) ORDER, 2007

In pursuance of Article 17 (5) of the Law entitled “Loi ayant rapport à la Fourniture d’Eau par les États de cette Île aux Habitants de la dite Île” registered on 7th May, 1927, as amended, the Water Charges (Amendment) Order, 2007, made by the Public Services Department on 8th November, 2007, is laid before the States.

EXPLANATORY NOTE

This Order varies the charges which may be made for the supply of water, increasing charges by amounts not exceeding the rise in the Retail Price Index between 30th September, 2006 and 30th September, 2007. The new charges come into effect on 1st January, 2008.

THE MILK (RETAIL PRICES) (GUERNSEY) ORDER, 2007

In pursuance of section 8 (4) of the Milk (Control) (Guernsey) Ordinance, 1958, the Milk (Retail Prices) (Guernsey) Order, 2007, made by the Commerce and Employment Department on 13th November, 2007, is laid before the States.

EXPLANATORY NOTE

This Order changes the retail price of milk sold in litres and half litres from 2 December 2007.

**THE HEALTH SERVICE (BENEFIT)
(LIMITED LIST) (PHARMACEUTICAL BENEFIT)
(AMENDMENT NO. 6) REGULATIONS, 2007**

In pursuance of section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 6) Regulations, 2007, made by the Social Security Department on 7th December, 2007, are laid before the States.

EXPLANATORY NOTE

These Regulations add to and remove from a limited list of drugs and medicines available as pharmaceutical benefit which may be ordered to be supplied by medical prescriptions issued by medical practitioners or dentists, as the case may be.

**THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (FINANCIAL
SERVICES BUSINESSES) (BAILIWICK OF GUERNSEY) REGULATIONS,
2007**

In pursuance of section 54 (1) (c) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007, made by the Policy Council on 10th December, 2007, are laid before the States.

EXPLANATORY NOTE

These Regulations impose requirements on financial services businesses for the purpose of forestalling and preventing money laundering and terrorist financing.

They revoke and update the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Regulations, 2002 (**“2002 Regulations”**) which also imposed such requirements.

The new Regulations contain significant differences to the 2002 Regulations to reflect revised international recommendations relating to money laundering and terrorist financing.

In particular they contain new obligations relating to carrying out risk assessments in relation to a financial service business as a whole and each business relationship it has with a customer (regulation 3), more precise requirements relating to the identification of persons on whose behalf transactions are carried out or who have effective control over customers (regulation 4), the timing of customer due diligence (regulation 7), provisions relating to the maintenance of customer accounts and carrying on business with shell banks (regulation 8), the monitoring of business relationships (regulation 11) and ensuring compliance and corporate responsibility for compliance (regulation 15).

The Regulations also substitute the definition of “financial services business” in Schedule 1 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (regulation 18 and the Schedule). The main changes of principle to that definition include that there is an express reference to anything that can only lawfully be done by licence or is exempted from that requirement under the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002. The provisions exclude certain incidental and other activities carried on by lawyers, accountants, actuaries and within a group of companies have been reworded and included in a new Part II to the Schedule.

Part I of the Regulations contains the requirements relating to risk assessment, Part II the requirements relating to customer due diligence including where enhanced due diligence must be carried out or where reduced or simplified due diligence may be carried out. Part III contains the requirements on financial services businesses to ensure their compliance with the Regulations, on record keeping and on internal reporting of suspicious transactions and employee training. Part IV provides for offences and penalties and makes similar provision to the 2002 Regulations by requiring specified financial services businesses, not licensed under the main financial services regulatory legislation, to notify certain information to the Guernsey Financial Services Commission; it also contains a new obligation on persons providing money or value transmission services to maintain a list of agents.

A Court must take into account rules and guidance contained in the Guernsey Financial Services Commission's Handbook for Financial Services Businesses on Countering Financial Crime and Terrorist Financing in determining whether a financial services business has complied with these Regulations.

**THE INCOME TAX (PENSIONS) (CONTRIBUTION LIMITS
AND TAX-FREE LUMP SUMS) REGULATIONS, 2007**

In pursuance of Sections 153(2), 157A(2)(b)(vi), 157A(5B) and 159 of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Pensions) (Contribution Limits and Tax-Free Lump Sums) Regulations, 2007, made by the Treasury and Resources Department on 11th December, 2007, are laid before the States.

EXPLANATORY NOTE

These Regulations are substantially the same as the 2006 Regulations; the only material change being the tax-free lump sums payable from an approved occupational pension scheme or an approved annuity scheme which increases to £152,000.

**THE INCOME TAX (GUERNSEY) (VALUATION OF
BENEFITS IN KIND) REGULATIONS, 2007**

In pursuance of Section 8(2)(b) of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Guernsey) (Valuation of Benefits in Kind) Regulations, 2007, made by the Treasury and Resources Department on 11th December, 2007, are laid before the States.

EXPLANATORY NOTE

These Regulations are substantially the same as the 2006 Regulations; the only changes being the motor vehicle benefit charges, which, as indicated in the November 2007 Budget Report, for 2008 are set at twice the charges applicable for 2007.

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 30th JANUARY, 2008

**The States resolved as follows concerning Billet d'État No I
dated 11th January 2008**

PROJET DE LOI

entitled

THE REGULATION OF FIDUCIARIES, ADMINISTRATION BUSINESSES AND COMPANY DIRECTORS, ETC (BAILIWICK OF GUERNSEY) (AMENDMENT) LAW, 2008

I.- To approve the Projet de Loi entitled “The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) (Amendment) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

THE BANKING SUPERVISION (BAILIWICK OF GUERNSEY) (AMENDMENT) LAW, 2008

II.- To approve the Projet de Loi entitled “The Banking Supervision (Bailiwick of Guernsey) (Amendment) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

THE FINANCIAL SERVICES COMMISSION (ENFORCEMENT POWERS) (BAILIWICK OF GUERNSEY) LAW, 2008

III.- To approve the Projet de Loi entitled “The Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

THE REGISTRATION OF NON-REGULATED FINANCIAL SERVICES BUSINESSES (BAILIWICK OF GUERNSEY) LAW, 2008

IV.-To approve the Projet de Loi entitled “The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

THE FINANCIAL SERVICES COMMISSION (SITE VISITS) (BAILIWICK OF GUERNSEY) ORDINANCE, 2008

V.- To approve the draft Ordinance entitled “The Financial Services Commission (Site Visits) (Bailiwick of Guernsey) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

THE MIGRATION OF COMPANIES (AMENDMENT) ORDINANCE, 2008

VI.-To approve the draft Ordinance entitled “The Migration of Companies (Amendment) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

THE AMALGAMATION OF COMPANIES (AMENDMENT) ORDINANCE, 2008

VII.-To approve the draft Ordinance entitled “The Amalgamation of Companies (Amendment) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

THE PROTECTED CELL COMPANIES (AMENDMENT) ORDINANCE, 2008

VIII.-To approve the draft Ordinance entitled “The Protected Cell Companies (Amendment) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

**THE INCORPORATED CELL COMPANIES
(AMENDMENT) ORDINANCE, 2008**

IX.-To approve the draft Ordinance entitled “The Incorporated Cell Companies (Amendment) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

PROJET DE LOI

entitled

THE COMPANIES (GUERNSEY) LAW, 2008

X.- To approve, subject to the following Amendments, the Projet de Loi entitled “The Companies (Guernsey) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

AMENDMENTS

1. For clause 244 (printed at page 253 of Volume II of the Brochure) substitute the following clause -

"Preparation of consolidated accounts."

244. (1) The directors of a holding company may, if they think fit, prepare consolidated accounts for that company and all or any of its subsidiaries whether or not they are companies incorporated under this Law ("**consolidated accounts**").

(2) The consolidated accounts shall include -

- (a) a profit and loss account, and
- (b) a balance sheet.

(3) The consolidated accounts shall -

- (a) give (and state that they give) a true and fair view,
- (b) be in accordance (and state that they are in accordance) with generally accepted accounting principles and state which principles have been adopted, and
- (c) comply (and state that they comply) with any relevant enactment for the time being in force.

(4) The consolidated accounts shall be approved by the board of directors of the holding company and signed on their behalf by at least one director.

(5) If the directors of a holding company prepare consolidated accounts for a financial year, then they are not required to prepare individual accounts for that company in accordance with section 243 for that financial year.

(6) The members of a company may, by ordinary resolution, require the preparation of individual accounts in respect of that company and, if they do, the directors must prepare accounts for that company in accordance with section 243.

(7) An incorporated cell company may prepare consolidated accounts for itself and all or any of its incorporated cells as if it were a holding company and its incorporated cells were its subsidiaries, and in that case -

(a) the consolidated accounts shall be approved by the board of directors of the incorporated cell company and signed on their behalf by at least one director, and

(b) the provisions of this section shall apply accordingly."

2. For the definition of "enactment" in clause 532(1) (printed at page 519 of Volume III of the Brochure) substitute the following definition -

"**enactment**" includes a Law, an Ordinance, and any subordinate legislation,".

PROJET DE LOI

entitled

THE CHILDREN (GUERNSEY AND ALDERNEY) LAW, 2008

XI.- To approve the Projet de Loi entitled "The Children (Guernsey and Alderney) Law, 2008" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

THE CRIMINAL JUSTICE (CHILDREN AND JUVENILE COURT REFORM) (BAILIWICK OF GUERNSEY) LAW, 2008

XII.- To approve the Projet de Loi entitled “The Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

STATES TREASURER (TRANSFER OF FUNCTIONS) (GUERNSEY) ORDINANCE, 2008

XIII.-To approve the draft Ordinance entitled “States Treasurer (Transfer of Functions) (Guernsey) Ordinance, 2008” and to direct that the same shall have effect as an Ordinance of the States.

POLICY COUNCIL

APPOINTMENT OF CHAIRMAN AND ONE ORDINARY MEMBER OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

XIV.-After consideration of the Report dated 17th December, 2007, of the Policy Council:-

1. To re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February, 2008.
2. To elect Mr Alexander Ferguson Rodger as an ordinary member of the Guernsey Financial Services Commission for three years commencing 2nd February, 2008.

TREASURY AND RESOURCES DEPARTMENT

ALDERNEY COMMERCIAL QUAY

XV.- After consideration of the Report dated 11th December, 2007 of the Treasury and Resources Department:-

1. To authorise the Treasury and Resources Department to approve acceptance of all tenders in connection with this project and to approve a capital vote, not

exceeding £9.5million, such sum to be charged to the capital allocation of the States of Alderney.

2. To authorise the Treasury and Resources Department to transfer an additional sum of £2million from the Capital Reserve to the capital allocation of the States of Alderney in respect of this project.
3. To note that the contribution from the Capital Reserve will be limited to £6million, all expenditure on this project in excess of this sum will be funded by the States of Alderney from capital income, including Alderney Gambling Control Commission reserves.

HOME DEPARTMENT

REVIEW OF PRISON ADMINISTRATION (GUERNSEY) LAW, 1949 AND ORDINANCE, 1998, AS AMENDED

XVI.- After consideration of the Report dated 22nd November, 2007, of the Home Department:-

1. To approve the Home Department's proposals to repeal the Prison Administration (Guernsey) Law, 1949 and Ordinance, 1998, as amended, and replace them with new 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.

CULTURE AND LEISURE DEPARTMENT

THE FORMATION OF A GUERNSEY ARTS COMMISSION

XVII.- After consideration of the Report dated 27th November, 2007, of the Culture and Leisure Department:-

1. To approve the setting up of the Guernsey Arts Commission as described in that Report.
2. To authorise the Culture and Leisure Department to provide to the Guernsey Arts Commission by way of grant, notional transfer and/or secondment the level of resources described in that Report.
3. To authorise the Culture and Leisure Department to determine the level of resources to be applied, from within its own resources, to the Guernsey Arts Commission for subsequent years.

4. To direct the Treasury and Resources Department to take due account of the above proposals, if approved, when calculating and recommending to the States the Culture and Leisure Department's revenue expenditure limit for subsequent years.

HOUSING DEPARTMENT

MAISON DE QUETTEVILLE

XVIII.- After consideration of the Report dated 14th December, 2007, of the Housing Department:-

To approve the change in security arrangements necessitated by the development of Maison de Quetteville by Methodist Homes for the Aged (Guernsey) Ltd, as set out in that Report.

SCRUTINY COMMITTEE

COMPLAINTS POLICIES AND APPEALS PROCEDURES UPDATE – MONITORING REPORT

XIX.- After considering the Report dated 15th November, 2007, of the Scrutiny Committee:-

1. To note the progress that has been made since the Scrutiny Committee's Review on "*Complaints Policies and Appeals Procedures*", August 2005, as reported in the Committee's Monitoring Report, November 2007, which is appended to that Report.
2. To direct the Policy Council to take into account the Scrutiny Committee's recommendations set out above in Section 3 of that Report and to include appropriate actions under Priority 12 of the Government Business Plan.
3. To direct all Departments to take into account the Scrutiny Committee's recommendations set out above in Section 3 of that Report and to include appropriate actions in their Operational Plans for inclusion under Priority 12 of the Government Business Plan.

PUBLIC ACCOUNTS COMMITTEE

CONTROLLING EXPENDITURE ON OFF-ISLAND PLACEMENTS

XX.-After consideration of the Report dated 30th November, 2007, of the Public Accounts Committee:-

1. To note the Report.
2. To direct the Health and Social Services Department to continue to progress the recommendations of that Report in order to achieve greater value for money.
3. To direct the Public Accounts Committee to monitor and review the action taken by the Health and Social Services Department and to carry out a full review in 2010.

ORDINANCES LAID BEFORE THE STATES

THE INCOME TAX (TAX RELIEF ON INTEREST PAYMENTS) (GUERNSEY) ORDINANCE, 2007

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007, made by the Legislation Select Committee on the 3rd December, 2007, was laid before the States.

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

This item was WITHDRAWN at the instance of Her Majesty's Comptroller.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE DRIVING TESTS (INCREASE OF FEES) REGULATIONS, 2007

In pursuance of section 2B (e) of the Motor Taxation and Licensing (Guernsey) Law, 1987, the Driving Tests (Increase of Fees) Regulations, 2007, made by the Environment Department on 31st October, 2007, were laid before the States.

THE WATER CHARGES (AMENDMENT) ORDER, 2007

In pursuance of Article 17 (5) of the Law entitled “Loi ayant rapport à la Fourniture d’Eau par les États de cette Île aux Habitants de la dite Île” registered on 7th May, 1927, as amended, the Water Charges (Amendment) Order, 2007, made by the Public Services Department on 8th November, 2007, was laid before the States.

THE MILK (RETAIL PRICES) (GUERNSEY) ORDER, 2007

In pursuance of section 8 (4) of the Milk (Control) (Guernsey) Ordinance, 1958, the Milk (Retail Prices) (Guernsey) Order, 2007, made by the Commerce and Employment Department on 13th November, 2007, was laid before the States.

THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO. 6) REGULATIONS, 2007

In pursuance of section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 6) Regulations, 2007, made by the Social Security Department on 7th December, 2007, were laid before the States.

THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (FINANCIAL SERVICES BUSINESSES) (BAILIWICK OF GUERNSEY) REGULATIONS, 2007

In pursuance of section 54 (1) (c) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007, made by the Policy Council on 10th December, 2007, were laid before the States.

THE INCOME TAX (PENSIONS) (CONTRIBUTION LIMITS AND TAX-FREE LUMP SUMS) REGULATIONS, 2007

In pursuance of Sections 153(2), 157A(2)(b)(vi), 157A(5B) and 159 of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Pensions) (Contribution Limits and Tax-Free Lump Sums) Regulations, 2007, made by the Treasury and Resources Department on 11th December, 2007, were laid before the States.

**THE INCOME TAX (GUERNSEY) (VALUATION OF
BENEFITS IN KIND) REGULATIONS, 2007**

In pursuance of Section 8(2)(b) of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Guernsey) (Valuation of Benefits in Kind) Regulations, 2007, made by the Treasury and Resources Department on 11th December, 2007, were laid before the States.

K H TOUGH
HER MAJESTY'S GREFFIER