



BILLET D'ÉTAT

WEDNESDAY, 30th JULY, 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 JULY, 2008**, immediately after the meeting of the States of Election already convened for that day, to consider the items contained in this Billet d'État which have been submitted for debate by the Policy Council.

G. R. ROWLAND
Bailiff and Presiding Officer

The Royal Court House
Guernsey
11 July 2008

PROJET DE LOI

entitled

THE AVIATION (BAILIWICK OF GUERNSEY) LAW, 2008

The States are asked to decide:-

I.- Whether they are of the opinion to approve the Projet de Loi entitled “The Aviation (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.

POLICY COUNCIL

and

COMMERCE AND EMPLOYMENT DEPARTMENT

GUERNSEY FINANCIAL SERVICES COMMISSION – CLARIFICATION OF FUNCTIONS

1.0 Introduction

- 1.1 This States Report recommends that the *Financial Services Commission (Bailiwick of Guernsey) Law, 1987* should be amended so as to (a) confer on the Commission the general function of taking such steps as it considers necessary or expedient for maintaining the safety, soundness and integrity of that part of the financial services sector for which it has supervisory responsibility and (b) to clarify the Policy Council’s powers to issue written guidance and directions to the Commission.
- 1.2 These further amendments were foreshadowed in paragraph 2.6 of the States Report considered by the States of Deliberation in May 2008 which recommended the relatively straightforward removal of the Commission’s function of developing the finance industry.
- 1.3 The Policy Council, the Commerce and Employment Department (“the Department”) and the Commission were aware that further amendments to the 1987 Law would be necessary prior to the International Monetary Fund assessment early next year. Nevertheless, following consultation between the Policy Council and the Department it was considered appropriate to deal with the necessary amendments in two stages: the removal of the development function being the first. The Commerce and Employment Department and the Commission have been working together to identify those other matters that needed to be addressed prior to the IMF assessment. This States Report, and the

accompanying Projet de Loi, contains the further amendments necessary to ensure that the 1987 Law meets current international regulatory standards.

2.0 Safety, Soundness, and Integrity

2.1 The 1987 Law confers on the Commission a general function to take such steps as it considers necessary or expedient for the effective supervision of finance business in the Bailiwick. This function reflected the international standards that were current in 1987. In its most recent assessment of the Bailiwick in 2003 the IMF recommended that, in line with modern international standards, the Commission should also have responsibility for ensuring the safety, soundness and integrity of the finance sector. Future IMF assessments are likely to examine these broader, and more systemic, issues.

2.2 In order to ensure that Guernsey continues to maintain its reputation as a well regulated jurisdiction the Department recommends that section 2(2) of the 1987 Law be amended to confer the following general functions on the Commission:

to take such steps as the Commission considers necessary or expedient for:

- (a) maintaining confidence in the Bailiwick's financial services sector, and
- (b) for maintaining the safety, soundness, and integrity of that part of the financial services sector for which it has supervisory responsibility.

2.3 Historically, the Commission has carried out its functions in such a manner as to ensure that the Bailiwick's reputation as a well regulated financial centre is maintained. That practice has resulted in the Commission carrying out these functions as part of its general operation. These amendments will enshrine the Commission's current good practice in the 1987 Law.

3.0 Accountability of the Commission

3.1 The 1987 Law ensures that the Commission is accountable to the Policy Council and ultimately the States. International standards recognise that financial services regulators must be accountable for their actions, but operationally independent.

3.2 One of the mechanisms for maintaining accountability in the 1987 Law is the power of Policy Council to give the Commission written guidance and directions of a general nature. In 2003, the IMF considered that the power to issue written guidance or directions could potentially compromise the independence of the Commission if used inappropriately. The IMF recognised that the power to issue written guidance or direction has been rarely used, and it has never been used in a manner which had compromised the operational independence of the Commission.

3.3 Nevertheless the 1987 Law should be amended to ensure that the power to issue directions and guidance cannot be used in such a manner as to compromise the ability of the Commission to independently and impartially carry out its supervisory functions. In addition, to ensure that the relationship between the Policy Council and the Commission is transparent any guidance and directions should be published. The Policy Council and the Department recommend that the 1987 Law should be amended to provide that:

- (a) any guidance or direction will be used only in the public interest, and not be used to influence particular cases;
- (b) any guidance or direction will not prejudice the independence of the Commission by prescribing the specific manner in which the Commission should carry out its supervisory responsibilities, and
- (c) any guidance or direction will be published (however publication would not be required before any guidance or direction takes effect).

3.4 These changes will require a Projet de Loi amending the 1987 Law and it would be beneficial to have the Projet as close to enactment, if not actually enacted, at the time of the IMF visit in January 2009.

3.5 For this reason the Policy Council, with the concurrence of the Presiding Officer, has agreed that this States Report and the draft Projet de Loi appear in the same Billet d'État.

4.0 Future reviews of the 1987 Law

4.1 These amendments represent the twelfth amendment to the 1987 Law since it was first enacted in 1987. Following the release of the IMF assessment next year it would be an opportune time to conduct a consolidation and review of the 1987 Law.

5.0 Alderney and Sark

5.1 This report and the accompanying draft Projet de Loi will be put forward for approval by the States of Alderney and the Chief Pleas of Sark.

6.0 Consultation

6.1 The Law Officers have been consulted and raise no objection to the proposals. The Commission has been consulted and has agreed to the proposals.

7.0 Recommendations

7.1 The Policy Council and the Commerce and Employment Department recommend that the States:

- (a) approve the proposals set out in this Report.
- (b) approve the draft *Projet de Loi* entitled “The Financial Services Commission (Bailiwick of Guernsey) (Amendment) (No. 2.) Law, 2008” and authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

L S Trott
Chief Minister

C S McNulty Bauer
Minister
Commerce and Employment Department

2nd June 2008

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

The States are asked to decide:

II.- Whether, after consideration of the Report dated 2nd June, 2008, of the Policy Council and the Commerce and Employment Department, they are of the opinion:-

- 1. To approve the proposals set out in that Report.
- 2. To approve the draft *Projet de Loi* entitled “The Financial Services Commission (Bailiwick of Guernsey) (Amendment) (No. 2.) 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 ROAD TRAFFIC (COMPULSORY THIRD-PARTY INSURANCE) (AMENDMENT) (GUERNSEY) LAW, 2008

The States are asked to decide:-

III.- Whether they are of the opinion to approve the *Projet de Loi* entitled “The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (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 GUERNSEY BAR (BAILIWICK OF GUERNSEY)
(AMENDMENT) LAW, 2008**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the Projet de Loi entitled “The Guernsey Bar (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.

**THE GAMBLING (GAMING AND LOTTERIES)
(AMENDMENT) ORDINANCE, 2008**

The States are asked to decide:-

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

**THE HOUSING (CONTROL OF OCCUPATION)
(AMENDMENT OF HOUSING REGISTER) ORDINANCE, 2008**

The States are asked to decide:-

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

PROJET DE LOI

entitled

**THE BANKING SUPERVISION (BAILIWICK OF GUERNSEY)
(AMENDMENT) (NO. 2) LAW, 2008**

The States are asked to decide:-

VII.- Whether they are of the opinion to approve the Projet de Loi entitled “The Banking Supervision (Bailiwick of Guernsey) (Amendment) (No. 2) 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 HOUSING (CONTROL OF OCCUPATION)
(GUERNSEY) (AMENDMENT) LAW, 2008**

The States are asked to decide:-

VIII.- Whether they are of the opinion to approve the Projet de Loi entitled “The Housing (Control of Occupation) (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.

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

NEW MEMBER

The States are asked:-

IX.- To elect a sitting member of the States as a member of that Committee to replace Deputy T M Le Pelley, who has been elected Chairman of that Committee.

CULTURE AND LEISURE DEPARTMENT

ELECTION OF NON-VOTING MEMBERS

The States are asked:-

X.- To elect as non-voting members of the Culture and Leisure Department,

Mrs Hannah Mercedes Beacom
Mr Jeffrey Vidamour

who have been nominated in that behalf by that Department, to serve until May 2012 in accordance with Rule 4 (2) of the Constitution and Operation of States Departments and Committees.

(NB The Culture and Leisure Department has provided the following profiles of Mrs Beacom and Mr Vidamour:

Hannah Beacom is currently Managing Director of Islands Coachways. She is the current Chair of the Chamber of Commerce’s Training, Education and Development Sub-Committee, a Member/competitor in the Guernsey Eisteddfod, a member of the Guernsey Youth Theatre since the age of 12 and a member of Beau Sejour Centre.

Jeff Vidamour has recently retired from the Condor Group after 42 years but is still a non-executive director. He recently resigned as Vice Chairman of the

Guernsey Football Association after many years of service to that sport. He is the Logistics Director for the Guernsey Island Games Association.)

HEALTH AND SOCIAL SERVICES DEPARTMENT

ELECTION OF NON-VOTING MEMBER

The States are asked:-

XI.- To elect as a non-voting member of the Home Department, Mr Bruce Anthony Mansell, who has been nominated in that behalf by that Department, to serve until May 2012 in accordance with Rule 4 (2) of the Constitution and Operation of States Departments and Committees.

(NB The Health and Social Services Department has provided the following profiles of Mr Mansell:

Mr Mansell is a self employed Chartered Quantity Surveyor and a Fellow of the Royal Institution of Chartered Surveyors. As an Associate of the Chartered Institute of Arbitrators, he has previously been an Adjudicator for the Commerce and Employment Department under the Employment Protection (Guernsey) Law. Mr Mansell acted as Secretary to the Harwood Panel during the 'Review of the Machinery of Government' and served as a non-voting member of the Health and Social Services Department from July, 2004 to April, 2008.)

(NB Rule 4 (2) of the Constitution and Operation of States Departments and Committees provides:

“Any Department may nominate up to two non-voting members, who shall not be sitting Members of the States, and whose appointments shall expire at the same time as the terms of the four sitting Members of the States. No other nomination may be made. Such Members shall have the same rights and duties as ordinary Members (other than the right to vote).”

ELIZABETH COLLEGE BOARD OF DIRECTORS

NEW MEMBER

The States are asked:-

XII.- To elect a member of the Elizabeth College Board of Directors to complete the unexpired portion of the term of office of the late Mr J Burton, namely to 5th January, 2012.

(NB The College Statutes include the provision that (13) any person having served the office of Director shall not be qualified for re-appointment till after the expiration of twelve months from the time of his going out of office.)

POLICY COUNCIL

OVERSEAS AID COMMISSION – ELECTION OF MEMBERS

Executive Summary

In this Report the Policy Council recommends six persons to be elected as the Ordinary Members of the Overseas Aid Commission to serve from July 2008 to July 2012. Alternative names can be proposed by Members of the States when the matter is debated.

Background

At the meeting on 11 March 2004 the States agreed to establish an Overseas Aid Commission, to operate under the new machinery of government, comprising

- a Chairman who shall be a member of the Policy Council - appointed by the Policy Council
- six Ordinary Members who need not be sitting members of the States - elected by the States on the recommendation of the Policy Council [this would not preclude nominations being made when the matter is debated]

(all serving for a period of four years).

Following the 2004 General Election

- the Policy Council appointed Deputy Roffey as Chairman of the Commission
- at the July 2004 States meeting the following were elected as Ordinary Members of the Commission to serve until July 2008 – Mr Richard Cox, Mrs José Day, Mr Mike Dene MBE, Mr Paul Chambers, Mr Glynn Allen and Mr Ian MacRae

Mrs José Day was subsequently elected by the Commission as its Vice Chairman.

Mr Richard Cox, who was then an Alderney Representative in the States of Deliberation, was elected in place of one of the Policy Council's nominations and, although he subsequently ceased to sit in the States of Deliberation, he has remained in office as an Ordinary Member of the Commission. Mr Paul Chambers resigned as an Ordinary Member of the Commission at the end of 2007 following his appointment to a post on the Established Staff of the States of Guernsey.

Deputy Roffey's appointment as Chairman of the Commission ended on 30 April 2008.

The Policy Council wishes to thank Deputy Roffey for his work as Chairman and also to express its appreciation of the contributions made by the Ordinary Members of the Commission.

The New Commission

At its meeting held on 19 May 2008 the Policy Council appointed Deputy Carol Steere as Chairman of the Overseas Aid Commission to serve until May 2012.

The Policy Council subsequently considered its recommendations to the States for the Ordinary Members of the Commission to serve from July 2008 until July 2012.

As in 2004, the Policy Council concluded that

- it would not propose any sitting members of the States as Ordinary Members of the Commission, on the basis that this would enable the Commission to operate at arms length from the States, (this does not prevent sitting members of the States being proposed when the matter is debated);
- there would be considerable benefit if a number of the Ordinary Members of the Commission were involved in development charities, as they would be knowledgeable and motivated in this area of work.

Furthermore, the Policy Council considers that there would be considerable benefit, in terms of continuity, if a number of the Ordinary Members of the Commission elected in 2004 were elected to serve on the new Commission. The Policy Council is pleased that Mrs Day, Mr Dene, Mr Allen and Mr MacRae have indicated their wish to continue to serve on the Commission. (Mr Cox does not wish to be considered as he is about to commence his studies for a PhD at King's College, London.)

The Council has accordingly agreed to recommend the following individuals to the States to serve as Ordinary Members of the Overseas Aid Commission from July 2008 to July 2012:

Members of the current Commission

Mrs José Day was elected by the States as a non-States member of the former Overseas Aid Committee serving from 1993 to 2004. She was elected by the States as a Member of the Commission in 2004 and has served as the Vice-Chairman.

Mr Mike Dene, MBE was elected by the States as a Member of the former Overseas Aid Committee initially as a States member from 1994 to 2000 (during part of which time he served as Vice-President) and subsequently as a non-States Member from 2001 to 2004. He was elected by the States as a Member of the Commission in 2004.

Mr Glyn Allen was elected by the States as a Member of the Commission in 2004. He has been an ActionAid supporter for nearly 30 years and has been Chairman of the Guernsey Support Group since 1997. He has also been Secretary of Hope for Guernsey (a sub-group of the Wessex Medical trust, which supports clinical research at Southampton's Hospitals and the University Medical School) since 1999.

Mr Ian MacRae is a retired civil servant, who from 1989 to 1994 served as Secretary of the former Overseas Aid Committee. He is a Director/Trustee of the London based agency International Childcare Trust and, in this role, has travelled to India and Sri Lanka on a number of occasions. He was a non-States Member of the former Heritage Committee at its dissolution.

New candidates

Mr Steve Mauger has been employed by the Guernsey Press Ltd since 1973 and has been a committed supporter of Christian Aid for over 30 years. He is currently Christian Aid Week Organiser for the Bailiwick of Guernsey, a committee member of Churches Together in Guernsey Christian Aid and Chairman of the Fairtrade Guernsey Steering Group. In these roles, he has gained knowledge of conditions and projects in various parts of the world, including Indonesia, Palestine, Pakistan and the Caribbean.

Mr Tim Peet retired from surgical practice in Guernsey in 1999. He has subsequently been closely involved with the teaching of surgical skills in East Africa, including tutoring and operating with Ugandan doctors. In the past four years he has been visiting Kitovu Hospital in Masaka in Uganda where there is an outstanding programme teaching local surgeons the treatment of obstetric fistula repair. With the backing of the Rotary Club of Guernsey he has recently promoted and completed a rainwater harvesting project in Bwala village, Masaka.

It is open to Members of the States to propose alternative names when the Policy Council's recommendations are debated.

Recommendation

The Policy Council recommends the States to elect

Mrs José Day
Mr Mike Dene, MBE
Mr Glyn Allen
Mr Ian MacRae
Mr Steve Mauger
Mr Tim Peet

to serve as ordinary members of the Overseas Aid Commission from July 2008 to July 2012

L S Trott
Chief Minister

16th June 2008

The States are asked to decide:-

XIII.- Whether, after consideration of the Report dated 16th June, 2008, of the Policy Council, they are of the opinion:-

To elect –

Mrs José Day
Mr Mike Dene, MBE
Mr Glyn Allen
Mr Ian MacRae
Mr Steve Mauger
Mr Tim Peet

to serve as ordinary members of the Overseas Aid Commission from July 2008 to July 2012.

PUBLIC SERVICES DEPARTMENT

RESIDUAL WASTE TREATMENT

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

30th May 2008

Dear Sir

1.0 Executive Summary

- 1.1 In January 2007 the States considered a report submitted by the Environment Department concerning waste management in Guernsey. (Billet d'État I, 2007 refers.) As a result, the Public Services Department was charged with procuring a long-term residual waste management system capable of dealing with Guernsey's residual waste for a 25-year period.
- 1.2 This report briefly outlines the progress that has been made to date, which includes the drawing up of a shortlist of potential tenderers.
- 1.3 This report also includes an explanation of the different types of waste treatment technology that have been proposed by those organisations who submitted a successful Expression of Interest.
- 1.4 Finally, the Public Services Department seeks the States' endorsement of the shortlisted bidders identified below.

2.0 Introduction

- 2.1 It has been acknowledged for some time that Guernsey's current method of waste disposal – i.e. landfill – cannot continue in the long term. The Island's only remaining landfill site at Mont Cuet has only a limited life span and, at current tipping rates, is predicted to be full by approximately June 2015.
- 2.2 Consequently, the Environment Department, whose responsibility it then was, made recommendations concerning the future of waste management in Guernsey, which were presented to the States in January 2007.
- 2.3 After consideration of the Environment Department's report (Billet d'Etat I,

2007) the States resolved, *inter alia*, as follows:

“To agree to seek competitive tenders for the design, build and operation of either

- (a) a Mass Burn Energy from Waste Facility, or*
- (b) a Mechanical Biological Treatment plant coupled to an Energy from Waste facility, which facility may be a Mass Burn or Advanced Thermal Treatment plant;*

such facilities, whether through procurement of successive modules or not, to have the capacity to deal with the waste arisings to be endorsed, but that tenders for any, or any combination of, MHT¹, MBT and ATT should also be considered.”

2.4 The States further resolved:

“To direct the Public Services Department to appoint engineering and legal consultants to assist with the preparation and issue of tender packs, the assessment of tenders and post tender negotiation.”

- 2.5 In accordance with the Resolutions of the States, in February 2007 the Public Services Department decided to continue the existing arrangements with Solicitors Tods Murray LLP, who were familiar with the Guernsey situation, having advised the former Board of Administration between 2001 and 2004 in respect of the previous waste project and whose contract had never been terminated. In this way, the Department hoped to ensure a measure of continuity in the early stages of the project. The best balance of in-house and external legal support is being carefully considered as the project moves into the next procurement stage.
- 2.6 With regard to technical consultants, the Department invited ten companies to submit expressions of interest in respect of tendering to assist with the activities referred to above. Seven responded positively and, of these, five were invited to give a presentation to the Board.
- 2.7 Following the presentations, the Board agreed to invite four of the five companies to submit tenders.
- 2.8 The tenders from technical consultants were returned in August 2007 and, after a thorough assessment process, Rambøll Danmark A/S/ AEA Energy and Environment/ PH McCarthy & Partners emerged as the successful tenderers and were appointed early in September 2007.

¹ Mechanical Heat Treatment

3.0 Expressions of Interest and selection of potential bidders

- 3.1 There was an initial delay in inviting Expressions of Interest, as this could not be done before the States approved the waste arisings figure, which did not happen until November 2007. Following agreement of residual waste arisings of 45,000 tonnes per year (rising to 70,000 tonnes per year after 25 years), a notice inviting Expressions of Interest was placed in the Official Journal of the European Union (OJEU), the magazine of the Chartered Institute of Wastes Management (CIWM) and the Guernsey Press. In addition, the Department's consultants wrote to all those who had been identified as part of the Environment Department's "global search" in 2006, as well as to companies who had expressed an interest in being considered for the contract.
- 3.2 Interested parties were given until 15 March 2008 to make their submissions, and the Department was pleased to receive over 30 submissions covering a wide range of solutions.
- 3.3 These submissions have been assessed against criteria agreed by the Public Services Department, which include evidence of the company's financial stability, track record and robustness of their proposed technology. For example, potential contractors had to show evidence of registration in a trade or professional register as well as copies of the past three years' Annual Accounts. With regard to technology, each submission had to include information demonstrating the robustness of the proposed technology and that it has a proven track record – including a list of similar contracts delivered during the last 5 years, contact persons, and a description of the scope of the contract. This is a crucial point, as the Island will be dependent on the chosen technology for at least the next 25 years.
- 3.4 For a full description of the criteria used to assess the Expressions of Interest, please see Appendix One.
- 3.5 The outcome of the Department's evaluation of the Expressions of Interest is that the short list of potential bidders should comprise:
- Suez Environment
 - CNIM
 - Waste Recycling Group Ltd
 - Cyclerval UK Ltd
 - ENER-G Group
 - Biffa Waste Services
 - Earth Tech Engineering Ltd
 - Bedminster International + Land Securities Trillium

The submissions encompass a range of technologies including Mechanical Biological Treatment, Energy from Waste, pyrolysis and gasification. For a description of each of these processes please see Appendix Two.

- 3.6 Some bidders have relied on only one technology, whereas others have suggested a combination of two or more. A summary of the technologies proposed by each company is also included in Appendix Two.

4.0 Proposed Form of Contract

- 4.1 A bespoke form of contract has been developed to meet the needs of procuring the design and build of a waste facility (the Works) and also of procuring the operation of the facility for 25 years (the Services) (referred to as the “DB25O Contract”).
- 4.2 Appendix Three contains a summary of the DB25O Contract. A copy of the full Contract, in its current draft form, has been lodged at The Greffe for information.
- 4.3 All construction contracts are subject to change on account of various factors, many of which are outside the control of either the Employer (in this case the States of Guernsey) or the Contractor. For example, planning considerations might necessitate changes to the original design of a building. Such alterations will result in increased costs or time delay or both. Such events are known as contract risks and it is necessary to decide in advance what risks may occur and also which party will bear the cost of such events.
- 4.4 The Risk Matrix attached to the DB25O Contract summary shows the allocation of risk between the Employer and the Contractor as agreed by the Project Board. Where a risk is deemed to be borne by the Employer, any consequent financial loss will be borne by the States. Likewise, the Contractor will bear the cost of any risks allocated to it. In approving the Risk Matrix, the Project Board has tried to be equitable to both parties to ensure that neither bears a disproportionate burden of risk.

5.0 Proposed Form of Tender

- 5.1 The Invitation to Tender enables the shortlisted bidders to tender for any of the solutions as agreed in Billet I 2007, namely:
- (a) a Mass Burn Energy from Waste Facility,
 - or
 - (b) a Mechanical Biological Treatment plant coupled to an Energy from Waste facility, which facility may be a Mass Burn or Advanced Thermal Treatment plant,
 - or
 - (c) any, or any combination, of MHT, MBT and ATT.

- 5.2 The purpose of the Invitation to Tender is to procure the receipt of compliant Tenders for the Contract and to enable the identification of a successful Tenderer for the Project with whom the Contract shall be entered into.
- 5.3 The Invitation to Tender will be issued on 15 August 2008 and will essentially comprise:
- a) Detailed instruction to the Tenderers as to how to prepare the Tenders;
 - b) The Tender Evaluation Model, against which the Tenderers will optimise their proposals;
 - c) The draft Contract with its 21 appendices; and
 - d) Background information, which will be for the Tenderers only – i.e. non warranted information.
- 5.4 The Tenders will have to be prepared in accordance with the instructions and they will contain a number of signed standard forms together with the Tenderers' Financial, Technical and Management Proposals.
- 5.5 During the Tender preparation period, the Project Team will offer the Tenderers the opportunity of attending a half-day meeting, which will give them the opportunity to discuss and clarify the scope of the project and will enable the Project Team to consider the relevance of potentially issuing memoranda of clarification to all Tenderers.
- 5.6 The proposed Tender Return Date is 20 November 2008. The Project Team will thereafter assess the Tenders against the Tender Evaluation Model, seek clarification where necessary and make a recommendation as to the preferred Tenderer.
- 5.7 After having considered all the Tenders the Public Services Department will recommend its preferred Contractor to the Treasury and Resources Department, which, if it agrees with the recommendation on financial grounds, will authorise the appointment of that Contractor. However, it is understood that, in the event of two closely priced tenders being submitted, the Treasury and Resources Department may choose to refer the matter back to the States.

6.0 Tender Evaluation Model

- 6.1 The proposed Tender Evaluation Model is shown in Appendix Four.

7.0 Funding

- 7.1 The preferred option is for the procurement of the facility to be funded by a loan to the proposed Employer. The capital sum will be repaid over the 25-year

operating period, with repayments being funded by the gate fees charged by the Employer/States.

- 7.2 The gate fee will be set by the States to cover operating costs plus capital repayment and interest charges less any income from the sale of energy or other by-products of the process.
- 7.3 The DB250 Contract includes provision for annual inflationary increases and 5-yearly reviews of the operating and availability fee payable to the Contractor.

8.0 Recommendations

8.1 The Public Services Department recommends the States to –

- 1. Endorse the proposed shortlist of potential bidders.
- 2. Note the proposed form of DB250 Contract, Invitation to Tender and Tender Evaluation Model.
- 3. Endorse the principle for the funding of the project from a loan to be repaid, with interest, from the receipt of gate fees and any income received from energy sales over the period of the DB250 Contract.
- 4. Authorise the Treasury and Resources Department to approve the appointment of the Public Services Department's recommended Contractor.

Yours faithfully

B M Flouquet
Minister

Appendix 1

Guernsey Residual Waste Treatment

Evaluation of Prequalification Applications

May 2008

Guernsey Residual Waste Treatment

Evaluation of Prequalification Applications

May 2008

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1. The Pre-qualification Process

The States of Guernsey instructed the Public Services Department in January 2007 to seek competitive tenders for a solution to the islands' residual waste.

The Public Services Department appointed consultants in August 2007.

Rambøll Denmark A/S together with AEA Energy and Environment Ltd. and civil works consultants PHMcCarthy and Partners were appointed to act as the States' technical consultants and Tods Murray was appointed as legal advisor.

PSD's Project Team together with its team of consultants has produced a number of pre-defined papers and presented them for approval to the PSD Board. Solutions Options Appraisal paper no. 03a was the Pre-Qualification Model and Evaluation Criteria paper, which sets out the procedure for conducting the pre-qualification process and it was presented for and approved by the PSD Board on 20/12/2007. The prequalification criteria and associated information to be submitted and the evaluation model is presented in section 1.1 below.

The pre-qualification process has taken place in accordance with the approved strategy in the sense that the OJEU text was published on 18/01/2008 and submissions were received on 16/03/2008. Also, shortly after 18/01/2008, a notice was published both in the Chartered Institution of Waste Management (CIWM) magazine, and in the Guernsey Press.

The Project Team has written to more than 60 companies to increase market awareness of the pre-qualification process and in particular, the Project Team has written to all companies previously having expressed an interest in providing a solution to Guernsey. The Project Team has spoken with many of the companies and the Project Team has responded to all queries submitted. A number of companies (Applicants) decided to just submit a very brief expression of interest without submitting the requested information and all of those Applicants have been made aware in writing of the requirements contained in the OJEU text for submission of information. Many Applicants have neglected the Project Teams reminder to submit additional information and they have decided not to submit any additional information, which has made it necessary to disqualify those Applicants on the ground of inadequate submissions and interest in the project.

The OJEU text has required the Applicants to submit information about their a) Financial strength, b) Technical capability, c) Management capability and d) Operational experience. The States of Guernsey will wish to be ensured that the Contrac-



tor is financially robust and has successful experience with all of those main criteria. The contract shall be a contract for the design, build, commissioning of a facility to treat Guernsey's residual waste and for the subsequent operation for a period of 25 years of the same facility. It is therefore very important that the contractor is robust and has the necessary experience.

A total of 33 Applicants have expressed interest in the project. Some have submitted a short e-mail only and others have submitted all information required in several files. The Applicants represent a large variety of companies, consortia and associations/partnerships suggesting many different technologies. Most of the Applicants have submitted an outline proposal with some sort of MBT or waste pre-treatment facility to be followed by some sort of thermal treatment facility.

1.1 The Prequalification Criteria and Assessment Model

The Applicants were requested to demonstrate their financial, technical, management and operating capability by submitting prequalification documents containing information as set out in Table 1.1. Pass and fail criteria are marked in the table.

1. Financial Strength of the Bidding Entity Including legal information	
1.1. Evidence of its incorporation and copies of its foundation documents (i.e. its Memorandum and Articles of Association or equivalent)	*
1.2. Evidence of its registration in a trade or professional register	*
1.3. Evidence of arbitrations, adjudications and other legal disputes to which it is/was a party within the last five years	*
1.4. Copies of Audited Annual Accounts for the last three years (along with confirmation that it is not in liquidation, not being wound up, not had a receiving or administration order made against it nor suffered any other similar or analogous event and that no such event is anticipated by it)	*
1.5. Supplementary evidence of its financial strength and/or its parent company (if applicable), such as a Standard & Poor/Moody's credit rating	*
2. Technical Information	
2.1. Information supporting the robustness and proveness of its proposed technology – including a list of similar projects delivered during the last 5 years, client contact details and a description of the scope of the relevant project(s)	*



2.2. Indication of the proportion of the works or services which the applicant would intend to subcontract, incl. a list of potential key sub-contractors/suppliers	
2.3. Description of the flexibility of the proposed solution for Guernsey, with respect to waste composition and calorific value of waste input (with details of any unacceptable wastes)	
2.4. Description of the capability of its proposed solution to accommodate the treatment of initially 45.000 tons per annum rising to 70.000 tons per annum by the 25th year	
2.5. Information on the anticipated input and output figures of its proposed solution, e.g. volumes and types of residues proposed, method(s) of disposal for each residue, as well as figures for chemicals, recyclables and net power exports	
2.6. Information on the Land Take requirement (ie the area of footprint required for the entire solution, incl. working space)	
3. Management	
3.1. Qualification of Staff forming the project organization	
3.2. Quality Assurance Certificates / Official Accreditations	
3.3. Description of Planning, Management and CAD tools	
4. Operation	
4.1. List of reference plants for client inspection purposes	*
4.2. Evidence of operational experience with similar facilities	

Table 1.1: List of information required at Pre-Q stage

* *Pass/failure criterion*

The above mentioned criteria allow different technologies to be represented in the procedure. For evaluation a weighted scoring model has been used in order to rank the Applicants and to prepare a short list for tendering.

Scores according to Table 1.2 and weighting according to table 1.3 has been used in the more detailed evaluation.



Possible scores	In words
10	Outstanding
9	Very good
8	Good
7	Average
6	Poor
0	Unacceptable

Table 1.2: Grades

Main Criteria	Grade (0 and 6 – 10)	Weight (%)	Score (Weighted grade)
1. Financial		20%	
2. Technical		40%	
3. Management		10%	
4. Operation		30%	
Total		100%	

Table 1.3: Weights



2. Prequalification Returns

2.1 Inadequate Submissions

Some Applicants have responded to the contract notice by simply sending a letter of interest, company brochures, inquiring e-mails etc. The Client has notified all applicants about the requirements for the prequalification, but these Applicants have not submitted the required financial, legal, technical, management and operational information and documentation. Hence, because of the limited information received it has not been possible to make an informed assessment of the financial, legal, technical, operational and management capabilities of the following Applicants:

1. Advanced Plasma Power
2. AFS
3. Armstrong York
4. Ascot Environmental
5. Bluemoon
6. Cogemo
7. Energia
8. Fehily Timoney
9. HotRot
10. MEMS
11. Oil &Water Ltd
12. Peras
13. Premier Waste Mgt
14. RPS
15. Stadler
16. New Earth Solutions Ltd
17. Crawford
18. Facultatieve Technologies Ltd
19. Helector
20. Island Waste Ltd

In conclusion prequalification returns from above Applicants have been classified as "inadequate submissions" in response to the contract notice. The submissions made by these Applicants are essentially so poor that the associated companies simply cannot be truly interested in the project.

All of those Applicants have therefore failed to pre-qualify.



2.2 Complete or substantially complete submissions

A total of 13 Applicants have responded to the contract notice by sending more comprehensive responses.

A detailed assessment of these companies has been made in accordance with the prequalification criteria and model described in section 1.1.

The result of the prequalification assessment of those Applicants and recommendation is given in the following sections.



3. Prequalification Assessment

During the assessment process it has been necessary to evaluate the importance and weight of the suggested pass/fail criteria and sub-criteria 1.1 to 4.2 and a possible interlink between the criteria and the scoring of the companies' financial, legal, technical and operational capabilities.

In the financial and legal scoring of the Applicants they have received an average overall grade, where financial criteria and legal criteria have been given a weight of 80% and 20% respectively.

Also in the technical scoring the Applicants have received an average overall grade, where criteria 2.1 (pass/fail) has been weighted 50% and criteria 2.2-2.6 have been weighted to 50% according to their importance.

The result of the assessment of the Applicants is given in the table below:

	Financial evaluation score	Technical evaluation score	Management evaluation score	Operation evaluation score	Total score
Maximum	20%	40%	10%	30%	100%
Suez Environment	9	9	9	9	90%
CNIM	6	9	8	9	82%
Waste Recycling Group Ltd	7	8	8	9	81%
Cyclerval UK Ltd	8	8	7	8	79%
ENER-G Group	8	8	8	7	77%
Biffa	8	7	7	8	75%
Earthtech Ltd	9	6	8	8	74%
Bedminster International + Land Securities Trillium	6	8	8	7	73%
Orchid Environmental	6	7	7	6	65%
Recycled Refuse International	0	7	6	6	52%
Bowen World Wide Developments	0	7	0	6	46%
Cenkos	0	0	0	0	0%
Advanced Recycling Technology Ltd	0	0	0	0	0%

Table 1.4: Preliminary result of the prequalification assessment

Applicants in the table above have been ranked according to highest score.

From the detailed assessment of the submissions it is worthwhile summarising some characteristics and they are:



- a) The Applicants have not been very precise in defining exactly who the “bidding entity” will be or in defining the expected amount of financial back-up with which the Bidding Entity will support their proposals. This is not unreasonable given that they have not yet seen the draft Contract or the technical specifications.
- b) The Applicants have not been very specific or precise in defining the exact suggested technical solution for Guernsey. Most of them have indicated the range of options which they will make available to the States but the exact solution has rarely been defined. Again, it should be said that this is not unreasonable given that they have not had the tender evaluation model or the technical specifications and in particular the waste characteristics, which, together with the tender evaluation model inevitably will define the optimal solution to the States.

A brief listing of the options proposed by the top-8 Applicants is as follows:

Company	Proposed Technology
Bedminster International + Land Securities Trillium (LST)	A Bedminster BioEnergy generation facility, comprising a digesting drum followed by a pyrolysis unit.
CNIM	CNIM has described their previous projects but they have not been specific for Guernsey. In 2004 they offered an EfW solution.
Earthtech Ltd	At this early stage, Earthtech believe EfW, either with or without a small MBT component, is a likely frontrunner for their proposal for the Guernsey project.
Biffa Waste Services	At this time Biffa would not be happy to nominate a specific technology, rather at a later stage in the procurement they would like to undertake a competitive tender process where a number of different thermal technologies would be asked to tender for technology supply contract.
Cyclerval UK Ltd	Cyclerval UK Ltd propose an EfW technology solution with an LBI oscillating kiln, similar to the Grimsby plant.
ENER-G Group	The waste will be pre-treated to be utilised in an Energos EfW Plant (pyrolysis).



Company	Proposed Technology
Waste Recycling Group Ltd	The waste will be pre-treated in a combined Material Recovery Facility (MRF) and Mechanical Biological Treatment (MBT) facility and then treated by an Energos EfW Plant (Pyrolysis).
Suez Environment	Suez Environment has suggested and described a total of four different technical solutions: EfW, EfW+MBT, High recycling + MBT + EfW or Pyrolysis+ MBT

It is worthwhile noticing that the top-8 Applicants propose a variety of technologies and as such they do fulfil the States desire to be offered a range of different technologies.

As a consequence of a) and b) above, further investigation and assessment of the bidding entities and of the proposed technical solutions should be made as part of the tender evaluation.



4. Prequalification Recommendation

Many of the Applicants have not submitted all of the required financial, legal and technical information.

Given the fact that the Applicants have not had the draft Contract or the technical specifications (including in particular the waste characteristics) this is not unreasonable but it is recommended that further assessment of the bidding entities' exact legal status and financial robustness and of the proposed technology shall be carried out as part of the tender evaluation.

Finally it is recommended that only Applicants scoring a total of 7 or above and in any event no more than 8 Applicants should be pre-qualified.

According to table 1.4 the pre-qualified Applicants should then be:

- Suez Environment
- CNIM
- Waste Recycling Group Ltd
- Cyclerval UK Ltd
- ENER-G Group
- Biffa Waste Services
- Earthtech Ltd
- Bedminster International + Land Securities Trillium

Appendix 2

WASTE TREATMENT SOLUTIONS – DEFINITIONS

1. Energy from Waste (EfW)

In an EfW facility, household and commercial waste is incinerated and energy is recovered. A typical EfW facility consists of a waste reception and feeding system, a furnace, a boiler, an energy recovery system, flue gas treatment system and a stack. The outputs from an EfW facility are electricity, bottom ash, metals for recycling and air pollution control residues. EfW plants are commonplace and are being built throughout the world.

2. Mechanical Biological Treatment (MBT) with Energy from Waste (EfW)

MBT technologies combine mechanical and biological processes within one system. Typically MBT facilities will involve a mechanical sorting process similar to a Materials Recovery Facility where metals are recovered and the remaining material is split into two fractions, one with high calorific value to be used as fuel and the other with high easily degradable biological content to be bio-stabilised. There are a number of potential outputs from an MBT depending on the configuration of the plant. They are the recyclable fractions together with Refuse Derived Fuel (RDF), bio-gas and Compost-Like Output (CLO). In Guernsey's situation RDF would most likely be disposed of by means of thermal treatment. Regarding CLO, the disposal method would depend on the characteristics of the CLO.

3. Advanced Thermal Treatment (ATT) (Pyrolysis and Gasification)

In general, ATT technologies can be split into two categories, Pyrolysis and Gasification. These technologies are not new; for example, in the case of pyrolysis the conversion of wood to charcoal in the absence of air has been used for hundreds of years. Similarly, an example of gasification would be the formation of producer gas which is the gasification of coal, coke and wood in the presence of air and steam. The word 'advanced' indicates that ATT is claimed to be superior to conventional EfW technology in respect of a higher electrical efficiency and/or a more stable bottom ash. However ATT plants do require a very clean fuel which means that the waste to be supplied to an ATT plant would require significant pre-treatment and therefore the ATT plant could not serve as a stand alone solution. Pre-treated municipal solid waste is introduced into a pyrolysis/gasification chamber from which is derived bottom ash and metals and the organic material in the waste is converted into syngas which is cleaned and used for heat and power generation.

4. Mechanical Heat Treatment (MHT)

MHT facilities are in many ways similar to MBT but the main difference is that MHT includes heat treatment and excludes the biological treatment step. The inclusion of the heat treatment stage is designed to produce a clean waste stream for sorting due to the reduction of bacteria. The output from an MHT plant will be metal and sanitised waste split into a biodegradable fraction and a high calorific fraction for thermal treatment.

SUMMARY OF TENDER SUBMISSIONS

COMPANY	EfW	EfW+MBT	HR+MBT+EfW	MBT+PYR	MRF+MBT+GAS	EfW (OSC KILN)	GASIFICATION
Suez Environment	√	√	√	√			
CNIM*	√						
Waste Recycling Group Ltd					√		
Cyclerval UK Ltd						√	
ENER-G Group							√
Biffa Waste Services**							
Earth Tech Engineering Ltd		√					
Bedminster International + Land Securities Trillium				√			

* CNIM did not propose a specific technology but are known to be manufacturers of EfW plants.

** Biffa Waste Services offer a variety of thermal processes .

Appendix 3

**STATES OF GUERNSEY
RESIDUAL WASTE TREATMENT PROJECT**

**DB250 CONTRACT
EXECUTIVE SUMMARY**

2008
RDC.SR.S1728-1003



TODS MURRAY LLP
SOLICITORS

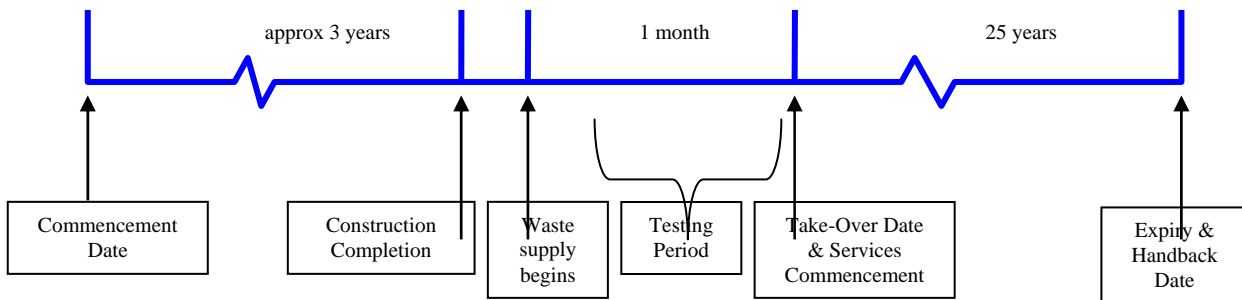
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EXECUTIVE SUMMARY OF DB250 CONTRACT

1. Introduction

This document comprises a synopsis of the terms of the “Design, Build and for 25 Years Operate” (DB250) Contract proposed to be let for the design, construction and operation of a residual waste treatment plant at Longue Hougue, Guernsey. The purpose of this document is solely to provide the reader with a brief overview of the DB250 Contract and neither is it intended as a substitute for reading the full, detailed provisions of the DB250 Contract nor should it be relied upon as being comprehensive or wholly reflective of the contract terms. The Risk Matrix attached to this summary illustrates the agreed allocation of various key project risks between the Employer and the Contractor which are captured in the drafting of the DB250 Contract.

The main stages of the DB250 Contract are illustrated in the following diagram:-



The governing law of the DB250 Contract is Guernsey law.

2. Initial Obligations

Both parties must fulfil certain obligations immediately upon entering into the DB250 Contract (which include delivering certain third party Guarantees, a Bond and evidence of insurance). If either party fails to fulfil its initial obligation, the other party will be entitled to terminate the DB250 Contract at any time (without penalty) until the obligation is fulfilled.

3. The Works

The scope of the Works to be performed by the Contractor is set out in the Employer’s Works Requirements and the Contractor’s Proposals. The Contractor is to carry out and complete the Works, commission the Plant and achieve the Take-Over Date within the agreed Time for Completion (as a failure to do so may give rise to liquidated damages or lead to termination). Whilst the Contractor will retain sole design responsibility, the Employer will be entitled to review and comment on the Contractor’s Plant design as it progresses. If any amendments to the Works are required at any time, the amendments

are to be made in accordance with a Works Variations Procedure¹. The Employer (and those authorised by the Employer) will be entitled to enter the Site and inspect the Works during construction and, if necessary, may ask for the Works to be opened up for inspection or for tests to be carried out.

The Contractor will be entitled to receive additional time to complete the Works and/or additional money only in certain specified circumstances (called “Delay Events” and “Contract Price Adjustment Events”), which reflect the agreed risk allocation between the parties (see the attached Risk Matrix).

Following substantial completion of the Works, the Contractor is to remedy any outstanding snagging matters and carry out the commissioning and testing of the Plant in accordance with the procedures set out in the DB25O Contract. Once all of the prescribed performance tests have been passed, the Take-Over Date will occur and the project will enter the operational services phase.

4. Payment for the Works²

The Works element of the DB25O Contract is to be performed for a fixed price (the “Contract Price”), which may only be varied in certain specified circumstances. The Contractor is to receive the Contract Price in staged payments against the completion of the activities set against specified “Milestones”³.

If any interim payment is not made by the Employer in accordance with the terms of the DB25O Contract the Contractor will have certain remedies available to it, including the right to suspend the Works until it is duly paid. The making of interim payments by the Employer will not imply its satisfaction with any of the Works. Upon the occurrence of a Contract Price Adjustment Event⁴ the Contractor will be entitled to an adjustment of the Contract Price in order to place it in the same position financially as if the particular event had not occurred (and the DB25O Contract includes a procedure for determining the relevant adjustment to be made to the Contract Price⁵). The final amount due to or by either party in respect of the Contract Price will be settled after the expiry of the 2 year Defects Liability Period by means of the agreement or determination of a Final Account and Final Statement. The Final Statement that is eventually agreed or determined will be final and binding on the parties in relation to all payments, extensions of time and claims arising between the parties (except in relation to any ongoing dispute in respect of the Final Statement itself).

¹ See Clause 14 of the DB25O Contract

² See Appendix 5 of the DB25O Contract.

³ Table of Works milestones and conditions to be met contained at Part D of Appendix 5 of the DB25O Contract

⁴ e.g. Works Variation, Force Majeure Event, Employer Default, Change of Law, Adverse Site Conditions, a Suspension Order, States failure to obtain consents, Employers failure to supply Waste etc.

⁵ See Part B of Appendix 5 of the DB25O Contract

5. The Services

The Contractor's performance of the Services is to commence immediately after the Take-Over Date and then continue for a period of 25 years (each such year being called a "Contract Year" and commencing on 1st April, save for the first one). The scope of the Services covers the operation and maintenance of the Plant and is more particularly set out in the Employer's Services Requirements (which requires, amongst other things, the Contractor to prepare and implement an Operational Plan and Annual Maintenance Plan for each Contract Year). The Contractor is to keep and maintain records and supply all requested documents to the Employer in relation to the operation and maintenance of the Plant⁶.

During the 25 year Services Period, the Contractor will be required to accept, handle and process at the Plant all "Contract Waste" that is delivered to the Site by authorised Waste Deliverers. Following processing, the Contractor is to transport the Final Residues generated by the process to allocated Residue Delivery Points (from where the States will become responsible for their disposal). The Contractor is to endeavour to reduce the volume of Final Residues produced and ensure that each of the Final Residues meets the quality requirements of the applicable environmental consents⁷. The DB250 Contract contains a Services Variation Procedure for dealing with any necessary amendments to the Services during the Services Period and provisions for the implementation of an "Emergency Plan" in certain situations where the Contractor is unable to process waste at the Plant⁸. The Contractor will be required to monitor and report on its performance of the Services on an ongoing basis in accordance with the Employer's Services Requirements and the Employer is also entitled to monitor the Contractor's performance at any time.

The DB250 Contract also sets out the procedure by which the Plant is to be handed back to the Employer at the end of the 25 year Services Period (and what minimum standard of condition the Plant is to be in at that time).

6. Payment for the Services⁹

During the Services Period the Contractor will be entitled to receive regular payments (called "Net Monthly Services Payments", payable monthly in arrears) in respect of the Services provided during in each Contract Month. Each monthly services payment is made up of (i) a fixed fee element (being the proportion of the fixed annual operating fee that is attributable to the relevant month) and (ii) a variable fee element (being a price per tonne multiplied by the number of tonnes of waste processed in that month). The combined amount is called the "Gross Monthly Services Payment".

⁶ e.g. Plans, Design Data, O&M Manuals, As-Built Drawings etc

⁷ Project Consents, States Necessary Consents, statutory requirements, Employer's Service Requirements

⁸ e.g. Unplanned Outages or Maximum storage capacity reached - See Clause 39 of the DB250 Contract

⁹ See Appendix 6 of the DB250 Contract

If the Plant is Unavailable at any time during a month and/or if, during the relevant month, there are any Performance Standard Failures in respect of the Services, then deductions are applied to the Gross Monthly Services Payment (at the levels set out in the DB250 Contract) creating the net amount payable by the Employer for the relevant month (being the Net Monthly Services Payment)¹⁰.

The fixed annual fee and variable tonnage fee are indexed annually to keep pace with inflationary increases and the DB250 Contract allows for a 5 yearly (quinquennial) review of the fees where the Contractor considers that its costs of delivering the Services (i.e. costs of personnel, consumables, spare parts, utilities, technical support etc.) have been subject to exceptional increases for which indexation does not fairly or adequately compensate it.

Upon the occurrence of any specified “Operating Cost Adjustment Event”¹¹ the Contractor will become entitled to an adjustment of the services payments so as to place it in the same position as if the event had not occurred (and the DB250 Contract includes a procedure for determining the relevant adjustment to be made)¹².

7. Rights of Termination

The DB250 Contract prescribes the circumstances in which either party may terminate the DB250 Contract (e.g. material breach or insolvency) and the procedures to be followed in each case¹³.

The Contractor’s right to terminate the Contract as a result of the Employer’s breach or default under the Contract is subject to specified remediation periods and is also subject to a right for the States to step-in and assume the Employer’s obligations under the DB250 Contract.

The Employer is to be entitled to off-set any costs or losses incurred by it as a result of the Contractor’s breach of its obligations against any monies due and payable to the Contractor from time to time.

Where termination of the DB250 Contract occurs as a result of a prolonged “Force Majeure Event” (e.g. war or nuclear disaster) the Contractor will be entitled to be paid compensation in respect of all work carried out and all costs incurred before the termination date.

¹⁰ Specific formulae for calculating the Gross Monthly Services Payment, Net Monthly Services Payment, Unavailability Deductions and Performance Deductions can be found in Part C of Appendix 6 of the DB250 Contract.

¹¹ e.g. Services Variation, Force Majeure, Employer Default, Change of Law

¹² See Part B of Appendix 6 of the DB250 Contract

¹³ See Clause 46 (Termination by Employer) and Clause 47 (Termination by Contractor)

8. Miscellaneous Provisions

The Contractor is not permitted to assign its interest in the DB250 Contract to any other party but is entitled to appoint sub-contractors where necessary (and subject to certain controls). The Employer may assign or novate its interest in the DB250 Contract in the certain limited circumstances specified in the DB250 Contract.

Where a Change in Law (e.g. a change in Guernsey legislation) occurs which affects the Works and/or the Services, the provisions of the DB250 Contract allow for this to be dealt with as if it was a Works Variation and/or a Services Variation instructed by the Employer.

All archaeological finds discovered at the Site are the property of the Employer and the DB250 Contract sets out the steps to be followed on discovery of any such find.

During the Contract Period both parties are required to obtain and keep in place certain policies of insurance as set out in the DB250 Contract¹⁴. The DB250 Contract also includes provisions dealing with the management of insurance claims and the application of the insurance proceeds.

The making of public announcements by the Contractor in connection with the Project and the making of references to the Project in its advertising or PR is strictly controlled under the DB250 Contract.¹⁵

The DB250 Contract sets out the obligations of the parties with regard to Intellectual Property Rights and Confidential Information and the parties shall be bound by these obligations at all times both during and after the expiry or termination of the DB250 Contract.

The DB250 Contract specifies a Dispute Resolution Procedure that is to be followed in respect of any dispute arising under the DB250 Contract which cannot be resolved between the parties.

[Annex – See the Project Risk Matrix attached]

¹⁴ See appendix 14 for the list of insurance policies to be obtained by each party

¹⁵ See Articles 8.4 to 8.6 of the DB250 Contract.

GUERNSEY RESIDUAL WASTE TREATMENT PROJECT

RISK MATRIX

1 **CONSENTS** 8

2 **DESIGN**..... 11

3 **CONSTRUCTION & COMMISSIONING**..... 12

4 **OPERATIONS** (including Performance & Availability) 18

5 **GENERAL** (including Finance, Handback and Termination) 21

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer ¹⁶	Contractor	
1	CONSENTS			
1.1	Responsibility for obtaining Lease of Site (from States Treasury & Resources Dept) - which is to subsist for the duration of the Works and for 25 years of operation (at minimum)	✓		
1.2	Responsibility for obtaining Lease / Licence to Use any Temporary Works Areas (lying outside the Site) - which will subsist for the duration of the Works	✓		
1.3	Responsibility for complying with Leases of Site and Temporary Works Areas (save for Employer's obligation to pay rent)		✓	
1.4	Responsibility for obtaining interim, provisional or outline Planning Permission ("Interim Planning Approval") prior to Contract Award date (in order to allow Contract Price to be fixed)	✓		
1.5	Responsibility for obtaining interim, provisional or outline Environmental Licence ("Environmental Decision in Principle") prior to Contract Award date (in order to allow Contract Price to be fixed)	✓		
1.6	Responsibility for complying with Interim Planning Approval from Contract Award until Full Planning Permission is granted by the Environment Department		✓	
1.7	Responsibility for complying with Environmental Decision in Principle from Contract Award until final Environmental Licence is granted by the Director of Environmental Regulation		✓	
1.8	Responsibility for any variations required to Works and/or Services due to any conditions of the final Full Planning Permission being materially different from the Environmental Decision in Principle	✓		Development of the Environmental Decision in Principle during the tender stage will require careful management in order to minimise the level of design required from tenderer(s) and its cost.

¹⁶ Employer = **Guernsey Waste Resources Limited** [to be confirmed]

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer ¹⁶	Contractor	
1	CONSENTS			
1.9	Responsibility for any variations required to Works and/or Services due to any conditions of the final Environmental Licence being materially different from the Environmental Decision in Principle	✓		As item 1.8.
1.10	Subject to 1.8, responsibility for complying with / discharging Full Planning Permission (once issued)		✓	
1.11	Subject to 1.9, responsibility for complying with final Environmental Licence (once issued)		✓	
1.12	Delay in obtaining Full Planning Permission for Plant	✓		Save where caused by a breach or failure of the Contractor.
1.13	Delay in obtaining final Environmental Licence for Plant	✓		Save where caused by a breach or failure of the Contractor.
1.14	Refusal of or other failure to obtain Full Planning Permission for Plant	✓		Save where caused by a breach or failure of the Contractor.
1.15	Refusal of or other failure to obtain final Environmental Licence for Plant	✓		Save where caused by a breach or failure of the Contractor.
1.16	Statutory fees payable to Environment Department and HSSD for applications for Full Planning Permission and Environmental Licence (excluding charges and fines for defaults of Contractor)	✓		Charges of Regulator will be prescribed by Order (which will follow the enactment of the Ordinance). To be prescribed by T&R Dept.
1.17	Failure to obtain Building Control approval(s) for Works		✓	
1.18	Failure to obtain Guernsey Electricity's consent to connection to local grid for importing electricity to the Plant (i.e. an electricity supply agreement)	✓		

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer ¹⁶	Contractor	
1	CONSENTS			
1.19	Failure to obtain Guernsey Electricity's licence to connect to local grid for exporting electricity (if relevant) (i.e. a grid connection and electricity off-take agreement)	✓		Office of Utility Regulation will control the issue of electricity generation licence. GE to grant grid connection licence and enter into power purchase agreement.
1.20	Failure to obtain Environmental permits for disposal routes of Final Residues by the date for testing and commissioning the Plant	✓		
1.21	Responsibility for obtaining Work Permits and/or Housing Permits for Contractor's staff (from the States Housing Department)	✓		Subject to Contractor providing the information required for applications.
1.22	Responsibility for obtaining & renewing licence for all weighbridge(s) on Site (from the States Commerce & Employment Department – Trading Standards Service, Weights & Measures)		✓	
1.23	Responsibility for making arrangements with Guernsey Harbour Authority (part of Public Services Dept) for anchorage, pilotage and unloading and for paying associated fees		✓	
1.24	Responsibility for making arrangements with Guernsey Police for movements of heavy/wide loads on public roads to and from Site		✓	
1.25	Responsibility for obtaining approval of all road works affecting public roads, connections to public sewerage system and all plumbing installations provided as part of the Works (from States Public Services Department – including Guernsey Water)		✓	
1.26	Responsibility for ensuring that construction personnel having valid driving licences and for procuring any permits or licences required for the lawful use of cranes, plant or machinery, hot working, scaffolding, working in confined spaces or working at height at the Site.		✓	

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
2	DESIGN			
2.1	Failure to Design to meet the Employer's Requirements, the Consents or applicable Laws		✓	
2.2	Responsibility for Design development (i.e. for developing the Design within the timetable and framework agreed with Employer)		✓	
2.3	Responsibility for the time and cost implications of Design alterations proposed by Employer which necessitate change of the Employer's Requirements and/or Contractor's Proposals.	✓		
2.4	Changes in the Contractor's Proposals (where initiated by Contractor)		✓	
2.5	Prior to the Operational Phase, changes in Design (and additional works) required by a Change of Law, whether by a general change of law or one specific to waste treatment operations	✓		
2.6	During the Operational Phase, changes in Design (and additional works) required by a Change of Law specific to waste treatment operations	✓		
2.7	During the Operational Phase, changes in Design (and additional works) required by a general Change of Law (i.e. not specific to waste treatment operations)		✓	
2.8	Subject to item 2.6, responsibility for correcting errors in Design and making good Defects in Design after completion of the Works		✓	

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
3	CONSTRUCTION & COMMISSIONING			
3.1	Failure to construct the Plant in accordance with the reviewed Design, the Employer's Requirements, the Consents and/or applicable Laws		✓	
3.2	Risk that construction price is under-estimated (e.g. due to an omission / oversight)		✓	
3.3	Incorrect time estimate for completion of construction (i.e. the actual time taken to complete the Construction Phase may be different from the estimated time)		✓	The rate of Late completion LDs will require to be set at a level which takes due account of the limited remaining landfill in Guernsey.
3.4	Unforeseen or adverse ground/site conditions at the Site which affect the progress of the Works and/or the cost of the Works	✓		Subject to definition of "adverse site conditions" being agreed.
3.5	Area of Site (and Temporary Works Areas) is insufficient to implement the chosen Design	✓		States may require to consider importing fill material from the UK / France to make up ground or reduce the size of the Plant. Tenderers should be incentivised to minimise their land take.
3.6	Failure or insufficiency of the existing breakwater (as a retaining structure and protection from sea water ingress, flooding and erosion)	✓		Save where caused by a breach or failure of the Contractor. (The level of flood protection required will need to be considered further).
3.7	Failure to provide uninhibited vehicular and pedestrian access to the Site	✓		Save where caused by a breach or failure of the Contractor.

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
3	CONSTRUCTION & COMMISSIONING			
3.8	Failure to observe and comply with tenant's obligations under Lease / Licence of the Site and/or Temporary Works Areas (other than payment of rent)		✓	Save where caused by a breach or failure of the Employer
3.9	Responsibility for enclosing the construction site with fencing/hoarding and maintaining on-site safety, welfare and security measures		✓	
3.10	Damage to Plant / buildings during construction / commissioning		✓	Save where caused by a breach or failure of the Employer (e.g. where caused by Unacceptable Waste being delivered to Plant).
3.11	Death or injury to persons during construction / commissioning	✓	✓	Liability attributed according to responsibility.
3.12	Provision of Insurance cover for Project (Works & Operations) – other than Contractor insurances such as Professional Indemnity, employer's liability, third party and vehicle covers.	✓		
3.13	Insufficiency of Insurance package (i.e. liability for making up financial shortfall in the event of a loss)	✓		
3.14	Liability for uninsured excesses and deductibles payable in respect of each claim		✓	
3.15	Risk that insurance may be vitiated or voided due to breach of insurance policy conditions or incorrect/fraudulent disclosure to Insurers	✓	✓	Liability attributed according to responsibility for breach.
3.16	Uninsurability of any previously insured risk (i.e. insurers cease to insure a particular risk in the marketplace, that subsequently occurs and affects the Project)	✓		

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
3	CONSTRUCTION & COMMISSIONING			
3.17	Responsibility for increases in insurance premiums in respect of the Employer's insurances	✓		Save where caused by a breach or failure of the Contractor. Uninsured deductible to be met by Contractor in respect of claims under the Material Damage cover. (Marsh to review proposed schedule of insurances to verify scope, deliverability, costs and terms).
3.18	Third party claims relating to nuisance, infringement of property rights or loss or damage to adjoining or neighbouring property	✓		Save where caused by a breach or failure of the Contractor.
3.19	<p>Risk of the occurrence of "Relief Events" being events which, if they occur prior to commencement of the Operational Phase and affect the progress of the Works, would entitle the Contractor to <u>additional time</u> to complete (i.e. relief from delay damages) but <u>not</u> entitle it to additional money, e.g.</p> <ol style="list-style-type: none"> (1) fire, explosion, lightning, storm, tempest, flood, bursting or overflowing of water tanks, apparatus or pipes, earthquakes, accidental loss and other typically insurable risks; (2) stoppages in utility supplies to the Site, where caused by third parties; (3) discovery of archaeological finds at the Site and the action of any competent authority in relation to such discovery; (4) a failure of the Employer to procure a supply of Contract Waste to the Plant in order to enable its commissioning; or (5) protestor action at the Site - but only where such action is directed against the project and does not involve any industrial dispute between the Contractor and its employees / sub-contractor's employees. 	✓ (time & loss of use)	✓ (prolongation costs)	

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
3	CONSTRUCTION & COMMISSIONING			
3.20	<p>Risk of the occurrence of "Force Majeure Events" being very significant events which, if they occur prior to commencement of the Operational Phase and affect the progress of the Works, would entitle the Contractor to additional time to complete (i.e. relief from delay damages) but <u>not</u> entitle it to additional money <u>except</u> where the FM event occurred for a protracted period after which the Contract was terminated by either party (in which event the Employer would pay compensation to the Contractor), e.g.</p> <ol style="list-style-type: none"> (1) war, civil war, civil disturbance, hostilities, invasion, armed conflict or act of foreign enemy, rebellion, revolution, riot or insurrection or terrorism; (2) ionising radiations, or contamination by radioactivity from any nuclear fuel, or from any nuclear waste which affects the Site; (3) sonic boom or pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds which affect the Site; (4) denial of use of any railway connection, port or shipping service in the European Union which prevents the performance of the Works; or (5) National or General strikes affecting one or more entire countries within the European Union and/or the Bailiwick of Guernsey, where any of the Works are being performed. 	✓	✓	If performance is prevented by Force Majeure the Contractor may be entitled to additional time (i.e. its obligations, insofar as prevented, are suspended until the event ceases) but no compensation is payable unless the Contract is terminated by a prolonged Force Majeure event.
3.21	Change of Law risk during construction (i.e. a change in law requiring variation of the Works) [see item 2.5 above]	✓		
3.22	Contractor default (including where caused by any sub-contractor) and risk of unexcused delays		✓	
3.23	Under-resourcing and/or poor / inadequate project management of Works		✓	
3.24	Industrial action affecting Contractor or its sub-contractors (which is not part of any General or National industrial action)		✓	
3.25	Protester action affecting Works at the Site (excluding protests by any employees or sub-contractors of the Contractor)	✓		

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
3	CONSTRUCTION & COMMISSIONING			
3.26	Disputes with / between sub-contractors		✓	Risk of disputes between Contractor and sub-contractors or between sub-contractors must be managed by Contractor: there will be no joinder of disputes (i.e. where a dispute between the Employer and the Contractor arises and a similar dispute arises between the Contractor and any of the Contractor's sub-contractors, the Contractor will not have the ability to require both sets of disputes to be decided in the same forum).
3.27	Corrupt Gifts, fraud and payment of commission by Contractor to States' employees		✓	
3.28	Inadequate availability of labour or materials		✓	
3.29	Inadequate or shortage of accommodation to house imported labour		✓	
3.30	Risk of logistics and consents needed for transportation and importation of personnel, goods and equipment (see also items 1.22 to 1.26 above)		✓	
3.31	Loss or damage to Works caused by an Insured Risk	✓	[✓]	Save where policy has been initiated or voided by act or omission of Contractor.
3.32	Adverse weather conditions affecting Site (not constituting a "Relief Event")		✓	
3.33	Trade embargo or blockade (not constituting a "Force Majeure Event")		✓	

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
3	CONSTRUCTION & COMMISSIONING			
3.34	Risk of any procurement or <i>vires</i> challenges (i.e. alleged absence of constitutional power or violation of process by States) being made by third parties against the States in an attempt to stop the Project or void the Contract	✓		
3.35	Suspension of Works where instructed by the Employer	✓		
3.36	Opening up of the Works on the instruction of the Employer where a default or failure is discovered		✓	
3.37	Opening up of the Works on the instruction of the Employer where <u>no</u> default or failure is discovered	✓		
3.38	Measures taken by States or other governmental body (e.g. HSSD) to control spread of disease (e.g. foot and mouth) which restrict the movement of goods or personnel	✓		
3.39	Failure to commission Plant and pass Tests on Completion		✓	Save where caused by a breach or failure of the Employer (e.g. a failure to deliver Contract Waste).
3.40	Supply of Contract Waste to enable testing and commissioning of Plant	✓		
3.41	Implementation of Emergency Plan where outages occur during Plant commissioning		✓	

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
4	OPERATIONS (including Performance & Availability)			
4.1	Incorrect estimated cost of providing the Services: outside annual indexation and quinquennial reviews		✓	The cost of providing the Services may be different to that priced, because of unexpected changes in the cost of equipment, labour, consumables, utilities, and other supplies.
4.2	Incorrect estimated cost of providing the Services: at the point of quinquennial reviews	✓	✓	
4.3	Changes in Law that are specific to waste treatment operations, which occur during Operational Phase and which affect the performance of the Services or the cost of performing the Services	✓		
4.4	General changes in Law that occur during the Operational Phase (i.e. that are not specific to waste treatment operations) and which affect the performance of the Services and/or the cost of performing the Services		✓	
4.5	Services variations instructed by the Employer	✓		
4.6	Technology risk and asset obsolescence		✓	
4.7	Incorrectly estimated cost of energy / parasitic load used by Plant (i.e. failure of Plant to meet energy efficiency targets or to control energy costs – as set out in Employer's Requirements)		✓	
4.8	Failure to achieve required quality for Final Residues		✓	
4.9	Income from Plant's electricity sales or value of recyclates is below Employer's expectations	✓		Save where due to a breach or failure of the Contractor.

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
4	OPERATIONS (including Performance & Availability)			
4.10	Non-Availability of Plant (i.e. Plant is unable to receive and treat Contract Waste)		✓	Save where due to a risk for which has been allocated to the Employer.
4.11	Failure to deliver Contract Waste to Plant in accordance with the Contract	✓		
4.12	Failure to comply with Employer's Requirements (and meet Service performance standards)		✓	The Contractor will receive deductions from Service Payments where the service provided is below standards specified.
4.13	Failure to procure spares, additives, chemicals and other consumables		✓	
4.14	Increases in costs of additives, chemicals, consumables, labour, materials, service contracts and general maintenance		✓	Availability Fee (operating costs of Contractor) to be subject to 5 yearly review during the Services Period. Tenderers to propose basis for review.
4.15	Residues & emissions: deviations in quality or quantity from that stated in Employer's Requirements or Consents		✓	
4.16	Failure to pass Tests after Completion / Performance Tests (and costs of rectification of Plant)		✓	
4.17	Inadequate odour / noise control		✓	The Environmental Licence will specify requirements for odour, noise, dust and other emissions levels.
4.18	Non compliance with Health & Safety standards		✓	
4.19	Non compliance with Consents		✓	

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
4	OPERATIONS (including Performance & Availability)			
4.20	Non compliance with Lease / Licence of Site		✓	
4.21	Failure to provide staff / key personnel to perform Services		✓	
4.22	Major unplanned outage affecting Plant (save where caused by an Employer risk, Relief Event or Force Majeure)		✓	
4.23	Contamination caused to the Site or adjoining property by Plant or Contractor's operations		✓	
4.24	Flooding of Site by sea water ingress	✓		
4.25	Death or injury to persons during Operational Phase	✓	✓	Liability to be attributed according to responsibility.

ITEM	RISK	RISK ALLOCATION		COMMENTS
		Employer	Contractor	
5	GENERAL (including Finance, Handback and Termination)			
5.1	Provision of finance for the Works and Services	✓		
5.2	Effect of currency fluctuations during Works	✓		
5.3	Effect of currency fluctuations during Operational Phase		✓	
5.4	Inflation risk	✓		
5.5	Changes in volume of Contract Waste requiring treatment / disposal (where volume is outside 45,000 to 70,000 tons per annum specified in Employer's Requirements)	✓		
5.6	Changes in Contract Waste composition and characteristics (if not as specified in Employer's Requirements)	✓		
5.7	Risk and responsibility for "Unacceptable Waste" entering Plant during commissioning and operation (e.g. gas cylinders)	✓	✓	The Employer is to be responsible up to an agreed point of risk transfer (to be determined). Thereafter, it is to be a Contractor risk. Insurance should respond to damage caused by explosion and fire.
5.8	Insolvency of the Contractor		✓	The Employer will require to rely on the Performance Security if this occurs.
5.9	Insolvency of the Employer	✓		
5.10	Failure to meet Handback Requirements		✓	
5.11	States/Employer no longer requires Plant at Handback Date	✓		

Appendix 4

States of Guernsey

Guernsey Residual Waste Treatment Facility

Volume 2 - Annex F: Tender Evaluation Model

May 2008

States of Guernsey

Guernsey Residual Waste Treatment Facility

Volume 2 - Annex F: Tender Evaluation Model

May 2008

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1. Introduction

The Tender evaluation will be a two-stage process.

The first stage is a pass/fail evaluation of the Tenders.

The Tenders will be evaluated against pre-defined criteria and for compliance with Appendix 1 [Employer's Requirements] as further set out in section 2 of this document.

Tenders, which pass the first stage evaluation, will then be evaluated in the second stage of the evaluation against a pre-defined scoring model as further set out in section 3 of this document.

Prior to rejecting a Tenderer, whose Tender fails the first stage evaluation, the States may at its sole discretion seek clarification from the Tenderer before confirming rejection of the Tender.

The second stage evaluation is a scoring evaluation in which the Tenderers' Technical, Financial and Management Proposals are separately evaluated in the sense that each Proposal will be given a score.

Scores will not be made available to Tenderers.

The States is not bound to award the Contract to the highest scoring Tenderer or any other Tenderer as it may decide.



2. Stage 1 - Pass / Fail Evaluation

The Tenders will be pass/fail tested against the following criteria:

1. Compliance of the Tender in accordance with Volume 2, Instructions to Tenderers, Clause 2.
2. Completeness of the Financial, Technical and Management Proposals in accordance with the Instruction to Tenderers.
3. Legal compliance
4. The requirement of the Tenderers to identify the bidding entity in accordance with Instructions to Financial Proposal including
 - Identify the party that for the purpose of the DB25O Contract will be the Contractor
 - Provision of all requested information as required by the Instruction to Tenderers for that identified party, specifically provision of evidence of satisfactory financial strength of the bidding entity together with satisfactory liability commitments
5. The requirement of Tenderers to provide evidence of previously completed similar projects based on the specific solution proposed in accordance with the Instructions to Technical Proposal.
6. Satisfactory confirmation of the Tenderer's organisation as further set out in the Instructions to Tenderers, and in the Instructions for Management Proposal.
7. Compliance with Appendix 1 [Employer's Requirements] of the Contract.

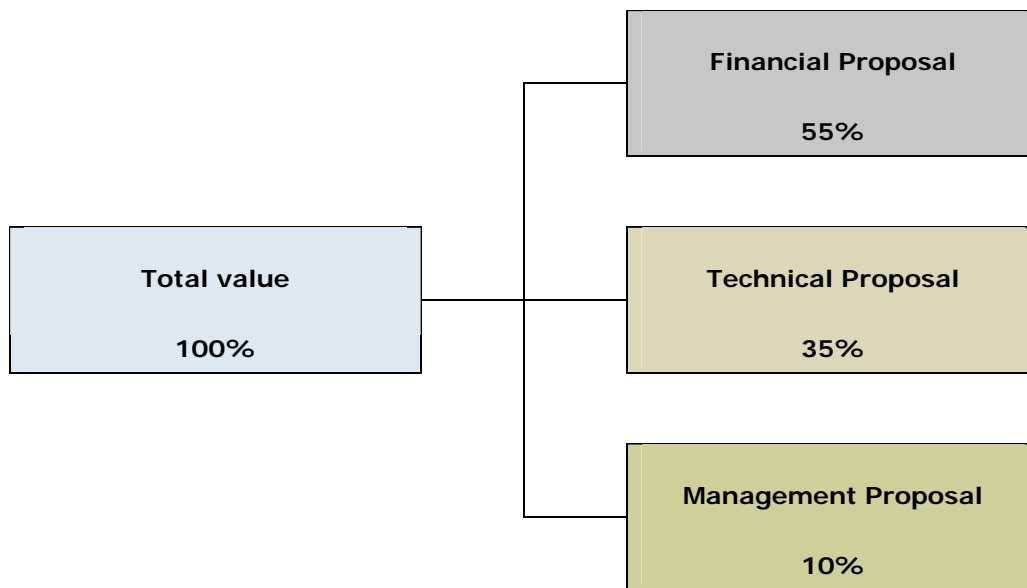
Tenders passing all of the above criteria will be deemed compliant and will qualify for the second stage scoring evaluation as set out in section 3 of this document.



3. Stage 2 - Scoring Evaluation

3.1 Proposal scoring evaluation

Tenders, which pass the first stage evaluation, will subsequently be further evaluated in accordance with the score model described below.



The figure above represents the weighting of the three main evaluation criteria. The break-down of these three main criteria into sub-criteria and the weighting of these sub-criteria are shown on the following pages.

3.1.1 Scoring Evaluation of the Financial Proposal

The Financial Proposal will have the following annexes:

1. The Form of Tender
2. Summary of Pricing Schedules
3. Pricing Schedule for the Works
4. Pricing Schedule for the Services, including financial model
5. Documentation demonstrating financial strength of the Tenderer
6. Insurance statement
7. Performance Security Statement

The evaluation of the Financial Proposals shall be made in accordance with the table below.



Item	Method of Evaluation
Net Present Value	<p>The net present value (NPV) will be calculated as the sum of the capital costs and the calculated NPV for operating the Plant in its Plant Lifetime. A real rate of interest of 5% shall be used.</p> <p><u>Capital cost</u></p> <p>1) The Contract Price as presented in the Pricing Schedule for the Works</p> <p><u>The calculated NPV for operating the Plant</u></p> <p>1) Annual Fixed Fee as presented in the Pricing Schedule for the Services</p> <p>2) Operating Fee calculated on the basis of 45,000 tonnes of Waste increasing to 70,000 tonnes of Waste delivered to the Plant over a 25-years period.</p> <p>3) Projected income from power sales (if applicable). This value will be calculated on the basis that power export shall sold at a rate of 5.5p/kWh</p> <p>Annual standing charges shall be calculated as 9.15p/kWh parasitic load requirement plus a charge of £8.89 per kW for each kW of maximum load per month.</p> <p>4) The States' costs of disposal of Final Residues</p>

Fifty five points will be given to the Tender with the least calculated lifetime NPV.

A lifetime NPV of 1.75 times that of the lowest calculated lifetime NPV will be given 0 points.

In between these NPV values, a linear relationship shall be used to calculate the score for the Financial Proposal

3.1.2 Scoring Evaluation of the Technical Proposal

The Technical Proposal will have the following annexes:



1. Proposed Technical Solution
2. Deviations from Appendix 1 [Employer's Requirements] of the Contract.
3. Drawings and Schedules for Civil Works Elements
4. Description of Civil Works Elements
5. Diagrams of the proposed technical solution
6. Technical Descriptions of the Environmental Performance and M&E Elements
7. Description of Operation and Maintenance Procedures
8. Any Other Issues

The evaluation of the Technical Proposals shall be made in accordance with the table below.

Item	Method of Evaluation
Compliance with Appendix 1 [Employer's Requirements]	<p>A general view of the degree of compliance with Appendix 1 [Employer's Requirements] of the Contract will be taken.</p> <p>The evaluation panel will evaluate any deviations in relation to their general improvement or the opposite of the Plant.</p> <p>Robustness, reliability, simplicity, efficiency and quality shall be of key importance in this evaluation.</p>
Civil Works Element	All memoranda, arrangement drawings and specifications shall be reviewed against the key performance criteria as set out in the Employer's Requirements' section 1 and against the intentions of the Employer's Requirements in general.
M&E Elements	All memoranda, technical diagrams, arrangement drawings and specifications shall be reviewed against the key performance criteria as set out in the Employer's Requirements' section 1 and against the Employer's Requirements in general. Particular interest will be shown to Technical Proposals with improved environmental performance.
Operation and Maintenance Procedures	<p>The Tenderers proposed strategies for operating the Plant shall be reviewed against the intentions set out in the Employer's Requirements of section 2 and against the Employer's Requirements in general.</p> <p>This will include a careful review of the suggested contents of the Operating Plan, the Annual Maintenance Plan, the O&M Manuals, the O&M System and the reporting.</p>
Programme	<p>This will include a careful review of the suggested Works Programme for the Initial Period, the Construction Period, the Commissioning Period, the Testing Period and the Services Period, cf. Annex [xx] of the Technical Proposal</p> <p>The review will also consider the Tenderer's Design Submission Programme, cf. Annex [xx] of the Technical Proposal.</p>

A score will be given for each memo in the Technical Proposal and scores for each memo will be weighted according to its importance. On that basis, a total score will be given for each Technical Proposal.



The Technical Proposal with the highest total score will be given 35 points.

A Technical Proposal with a total score of 65 % of the highest total score will be given 0 points. Linear interpolation shall be used to calculate the score for the Technical Proposal.

3.1.3 Scoring Evaluation of the Management Proposal

The Management Proposal will have the following annexes:

1. Details of Tenderer
2. The Tenderer's Structure
3. Management of Public Relations
4. Management of Health, Safety and Welfare
5. Management of Quality Assurance
6. Staff, Recruitment and Training
7. Facility Management

Item	Method of Evaluation
Tenderer	<p>In the Management Proposal, the Tenderers will have described their organisation and structure during the different defined periods of the Contract.</p> <p>The management strength of the Tenderer will be evaluated.</p>
Public Relations	<p>The Tenderers strategy for Public Relations will be carefully reviewed.</p> <p>The strength of the Public Relations strategy will be evaluated.</p>
Health, Safety and Welfare	<p>The Tenderers strategy for health, safety and welfare will be carefully reviewed.</p> <p>The strength of the health, safety and welfare strategy will be evaluated.</p>
Quality Assurance	<p>The Management Proposal shall set out how a quality assurance system in accordance with Clause [xx] of the Contract will be implemented in relation to designing, constructing, testing, commissioning and operating the Plant.</p> <p>High standards will be expected but also the Tenderers practical approach to quality assurance will be reviewed. The Employer will wish to see quality assurance documentation regularly and the Management Proposal will be reviewed with this in mind.</p>
Staff, Recruitment and Training	<p>The Plant shall be built in a small island community. The Plant shall depend on continuous availability of suitably qualified and trained Key Personnel and operating staff.</p> <p>The suggested policy submitted with the Management Proposal to support this concern will be evaluated.</p>



A score will be given for each memo in the Management Proposal and scores for each memo will be weighted according to its importance. On that basis, a total score will be given for each Management Proposal.

The Management Proposal with the highest total score will be given 10 points.

A Management Proposal with a total score of 65 % of the highest total score will be given 0 points. Linear interpolation shall be used to calculate the score for the Management Proposal.

(NB The Policy Council is pleased that the Public Services Department is reporting back to the States on this matter. There is an urgent need for the States to resolve the issue of residual waste treatment, as identified by the Government Business Plan Priority 6 (Determine Waste Management Strategies). By a majority, the Policy Council urges the States to take the approach and approve the recommendations contained in the Report. In doing so, the Policy Council notes that, in the event of two closely balanced tenders being submitted, the Treasury and Resources Department may choose to refer the matter back to the States.)

(NB The Treasury and Resources Department supports the recommendations of this States Report and will be liaising closely with the Public Services Department over the financing arrangements for this facility and the consequent impact on Public Services Department's ongoing revenue budget.)

The States are asked to decide:-

XIV.- Whether, after consideration of the Report dated 30th May, 2008, of the Public Services Department, they are of the opinion:-

1. To endorse the proposed shortlist of potential bidders.
2. To note the proposed form of DB25O Contract, Invitation to Tender and Tender Evaluation Model.
3. To endorse the principle for the funding of the project from a loan to be repaid, with interest, from the receipt of gate fees and any income received from energy sales over the period of the DB25O Contract.
4. To authorise the Treasury and Resources Department to approve the appointment of the Public Services Department's recommended Contractor.

POLICY COUNCIL

DEVELOPING THE GOVERNMENT BUSINESS PLAN DURING THE 2008-2012 STATES TERM

1. EXECUTIVE SUMMARY

This report describes the work being undertaken to establish that there is majority support within the new States Assembly (“the new States”) to develop the Government Business Plan into the fuller and more balanced form envisaged in the last GBP report in March this year.

It explains that the indications from early discussions do not suggest that there needs to be any substantial shift in political direction following the General Election but that the GBP process needs to demonstrate that it is capable of managing the political tensions that underlie Guernsey’s consensus form of government.

A progress report on the current States Priority Action Plans that will also clarify the intended format of the new plans and resource strategies described in the March report is intended for presentation to the October States meeting.

2. INTRODUCTION

At the time of writing this report (mid-June 2008), the new States has been in place for less than two months and it is only a little longer than that since the previous States considered the last report on the GBP at its March 2008 meeting.

In that March report, however, it was indicated that a further report should be submitted to the States in July to reflect the emerging views of the newly elected or re-elected Deputies on the political direction to be set for the 2008-2012 term, via the GBP.

In view of the very limited period of time for consultation between the Policy Council and States Members, this report can only provide an early and tentative overview of political ideas and issues that will need to be explored and developed into a more coherent agenda for action, during the next 12 months and beyond. It is, however, a further step forward in the continuing and incremental GBP process.

3. THE PURPOSE OF THE GBP AND THE DIRECTION SET BY THE MARCH 2008 GBP REPORT

Prior to the 2008 General Election, all prospective candidates were provided with a concise information leaflet about the GBP, which was subsequently included as part of a standard ring binder file of information provided to each elected Deputy. The leaflet states that “*The main objectives of the GBP are to generate a stronger sense of political direction amongst States Members within Guernsey’s consensus form of government and to establish a firm relationship between corporate strategy and departmental policy-making and service delivery*”. The leaflet also says that the GBP is needed:

- “◦ *to ensure effective government;*
- *to achieve and demonstrate political commitment;*
- *to make the government accountable for getting results; and*
- *to coordinate corporate policies with department policies and the strategic prioritisation of resources including States spending.”*

In the March 2008 States Report, the then Policy Council explained how the GBP would benefit from a fuller and better balanced organisational structure to support a five phase approach towards corporate planning. The five phase process was described in a diagram that is also attached to this report as **Appendix 1**. The diagram was also interpreted, in more detail, in the form of an indicative timeline for 2008-2012 as reproduced at **Appendix 2**.

The March Report also identified two key challenges facing the new States in taking the GBP forward:

- “◦ *It must provide strategic leadership whilst continuing to maintain support amongst States Members as a whole; and*
- *it must integrate financial planning and resource prioritisation within the overall plan.”*

The report acknowledged the inherent difficulty of providing leadership and a strong decision-making process in a form that is compatible with Guernsey’s consensus form of government.

4. BUILDING POLITICAL CONSENSUS

Phase 1 of the five phase corporate planning process involves the identification of a majority consensus amongst Deputies, at the start of each States term, about the priorities or, as one Deputy has suggested, ‘areas of shared concern’, to be addressed.

To start this process, Policy Council staff reviewed the election manifestos of all the Guernsey Deputies relating them to current GBP Priorities and to the new structure of plans and resource strategies supporting the five phase process.

The purpose of this exercise was twofold:

- To identify any new political themes and topics that might require a significant reorientation of the current GBP; and
- To see whether the proposed GBP structure would be capable of absorbing and progressing these new ideas.

All States Members were invited to a presentation on the findings of this review on 21st May, which was hosted by the Chief Minister and Deputy Mahy, a member of the former GBP Team. Members subsequently received a copy of the slideshow presentation, which was also made available to the media.

Overall, the review process did not identify any single topic or concern as dominating the manifestos of successful candidates, although it was clear that the Zero-10 debate and issues such as student loans were still very much in people's minds as the 'backdrop' to the General Election. The Chief Minister commented, however, that there was a prevailing sense that the public was reflecting on the difficulties of the previous States and looking for:

- Better political teamwork;
- Better two-way communication (between the States and the public);
- Competent financial management; and
- Greater public accountability.

The attached schedule, (**Appendix 3**), identifies how the fifteen Priorities adopted by the previous States relate to the new GBP structure of plans and strategies and provides an indication of views, expressed in a significant number of manifestos, in relation to each priority topic. This is only a very broad-brush analysis that will require further refinement and development as the new States settle into their role. Many ideas and opinions aired in the manifestos are specific and detailed rather than strategic in nature and do not require a shift in the direction or structure of the GBP. Nonetheless, States Members expect the GBP process as a whole to be capable of responding to the input of their ideas and this desire for involvement and related matters is explored later in this report.

In addition to starting work on identifying the majority consensus for action within the new States, the Policy Council has also agreed a mandate for the new Government Business Plan Team.

The mandate requires the team to manage the continuous development of the GBP process and to monitor and review the implementation of the plan, to ensure that agreed States' objectives are met.

The responsibilities of the GBP Team include:

- (i) direct consultation with all States Deputies to identify the political priorities to be addressed through the GBP;
- (ii) the preparation of the Government Infrastructure Plan for approval by the States;

- (iii) liaison with the Treasury & Resources Department to ensure the successful integration of financial planning within the GBP;
- (iv) receipt and consideration of six-monthly progress reports from the Policy Steering Groups responsible for the preparation of the suite of States Strategic Plans (i.e. Islands' Identity Plan, Fiscal & Economic Plan, Environmental Plan and Social Policy Plan) and subsequent presentation of consolidated progress reports to Policy Council;
- (v) preparation of the annual Government Business Plan Report (Policy & Resource Plan) and the 'Sustainable Guernsey' Monitoring Report for presentation by the Policy Council to the States;
- (vi) Political responsibility for overseeing and further progressing the "Developing the Public Sector" initiative.

It should be noted with reference to Appendix 3, that the group's role in preparing the Government Infrastructure Plan gives it the lead responsibility for two of the important 'Delivery Priorities' associated with improving the public's perception of the States:-

- Priority 12 – To meet the needs of Guernsey citizens as public service clients more effectively through corporate working and streamlined delivery.
- Priority 13 – To create a forward-looking culture amongst all public sector staff.

In effect, the Government Infrastructure Plan will enable the machinery and culture of government to remain under continuous review in response to changing public expectations. Since the current title is 'wordy' and not as clear as it might be, it is intended that it should be formally renamed as the 'Change Management Plan'.

In recognition of the group's pivotal role, the GBP Team is to be chaired by the Chief Minister, with ministerial support from Deputies Mahy, Dorey and Adam plus three States Members appointed on a four-monthly cycle.

At the time of writing, the new group is yet to be convened and this report has been prepared on behalf of the Policy Council as a whole. For the future, however, the broad membership base of the GBP Team is intended to enable the active involvement of as many States Members as possible in the development of the GBP.

5. MANAGING POLITICAL TENSIONS WITHIN GUERNSEY'S SYSTEM OF GOVERNMENT

During 2004–2008, the GBP Team emphasised that the GBP process is a way of actively managing political tensions; it is not a way of eradicating those tensions.

The recent review of election manifestos shows that the new, more developed structure of the GBP should be able to take on board topics that are of concern to the new States.

Feedback from States Members following the presentation on 21st May, however, indicates that some Members are concerned about the GBP's ability to manage political tensions in a way that commands majority support.

In a party political system, the predominant and obvious lines of tension run between the agendas being pursued by the various parties. These tensions may be seen as destructive at times but they do have the advantage of visibility. Prior to 2004, this sort of tension was mirrored to an extent in the States in terms of the sometimes competing agendas of the major States Committees. Department agendas, (and their associated bids for funding and staff resources), unlike party agendas, however, received no direct public endorsement and addressed only sectoral concerns and aspirations. They also placed the States as a whole in a reactive position without a shared, corporate agenda to take forward.

Post-2004, the new machinery of government is expected to enable the States to act in a more coordinated way and to be capable of better medium to long-term planning but the political tensions that were evident in the 2004-2008 States term will indeed have to be managed in a positive way, if these goals are to be achieved. Recently published reports into the role of the States as employer and into Guernsey's planning system demonstrate that creating respected political leadership within Guernsey's non-party, non-executive system remains a work in progress.

There are three important lines of tension that the GBP needs to be able to deal with if it is to be successful:

- Between the role of individual members and the role of the Ministers.
- Between Departments and the Policy Council.
- Between States Departments.

The Policy Council recognises that concerns about these relationships are the subject of strong political views and welcomes the opportunity for constructive debate about the way the GBP can be developed, to help maintain an effective balance between these different aspects of government. Consideration of this report at the July 2008 States meeting provides the opportunity to begin this process.

6. PRACTICALITIES

The indicative timeline (**Appendix 2**) which accompanied the March 2008 GBP report provides the new States with a recommended route for making progress. It sets a very demanding pace for the preparation of the plans and resource strategies that support the five phase process of corporate planning; for the integration of financial planning within the GBP and for the introduction of a monitoring system (**Appendix 1**).

This demanding pace reflects the need to turn the GBP from a 'statement of intent' into a practical plan for managing government business as quickly as is realistically possible.

Inevitably, what can be achieved by July-October 2009, when the GBP and associated financial plans are debated, will be imperfect but it will represent the next substantial step forward and the material produced can then be further reviewed and refined.

In addition to voicing the concerns described in the previous section of this report about political tensions, some States Members have also asked for further clarification about the new strategic plans and resource strategies that expand and balance the structure of the GBP. The Policy Council shares the view that some have expressed that these documents need to be kept as concise and straightforward as possible, if the GBP process is to be a manageable one.

At the time of writing, the various policy groups responsible for producing the plans and strategies are in the course of formation. Once they are in place, the GBP Team will be in contact to arrange discussions so that progress is made in a consistent way across the board. Although dialogue amongst the relevant staff has already begun, this work now requires political involvement.

To ensure that the States is kept fully informed, the Policy Council proposes to present a further report, in October this year, to include the following information:

- An update on the progress made, since July 2007, on the implementation of the fifteen States Priority Action Plans;
- A description of the intended format of the new GBP strategic (5) and resource utilisation (4) plans, showing how the Priority Action Plans are to be assimilated into the new structure; and
- A schedule of seminars to be held by the policy groups during the autumn/winter of 2008/9, to provide all States Members with the opportunity to be involved in the policymaking process. It is hoped that these seminars will contribute to the positive management of political tensions, as described in this report.

7. RECOMMENDATIONS

The Policy Council recommends the States to note the contents of this report including the intention to update the States again through a further report in October 2008.

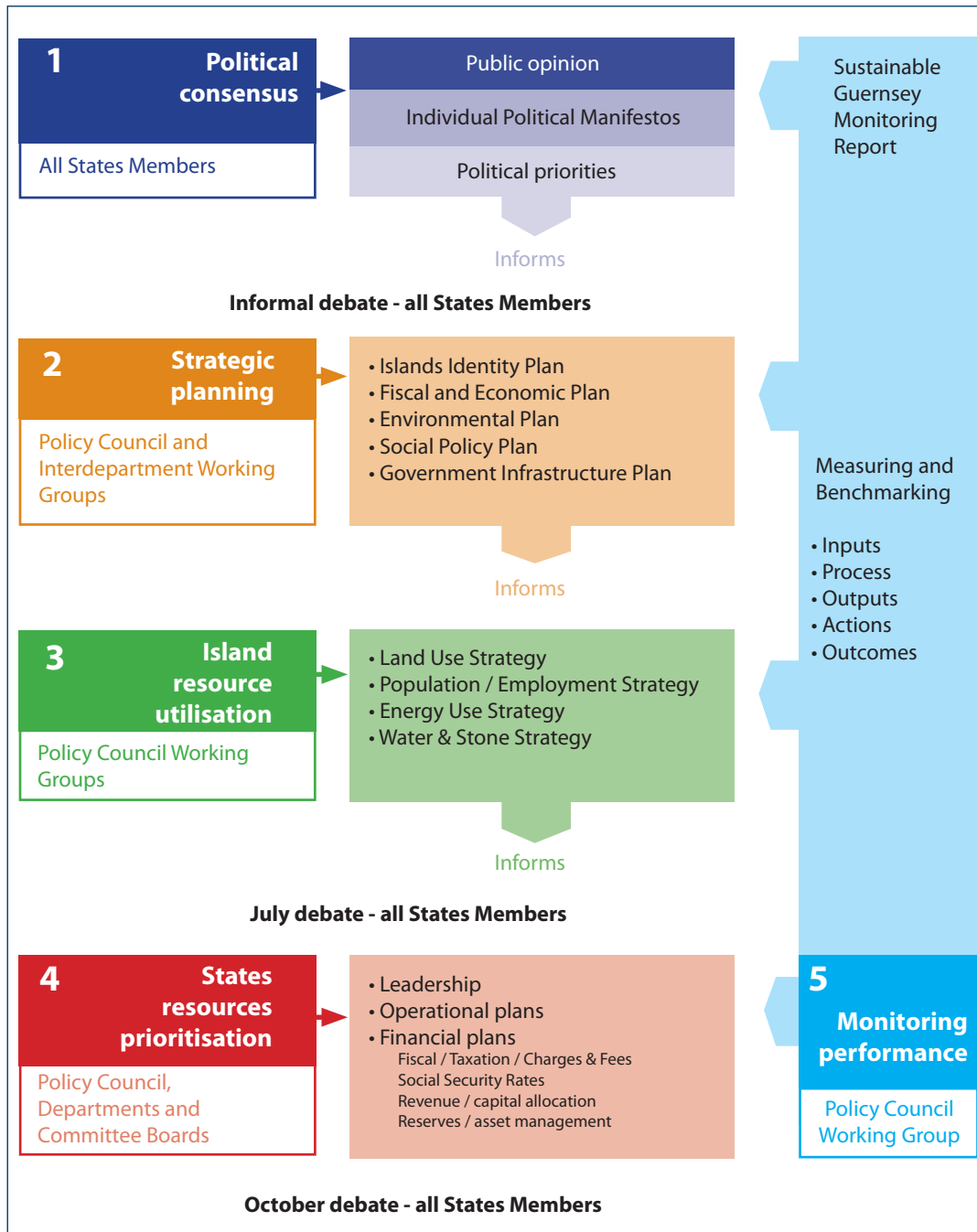
L S Trott
Chief Minister

26th June 2008

Appendix 1

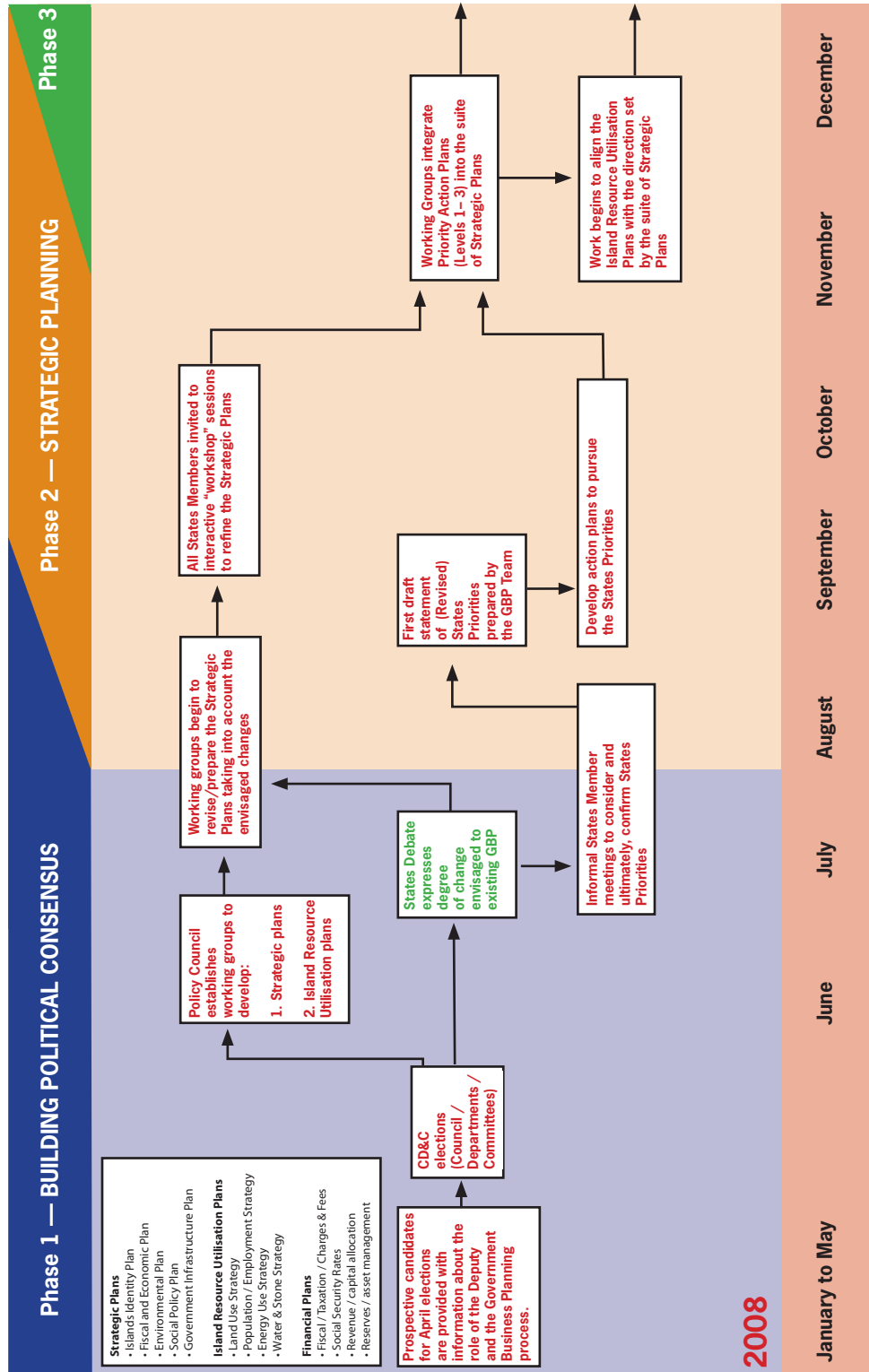
Corporate Planning for Government Business

A 5 phase approach to resource prioritisation

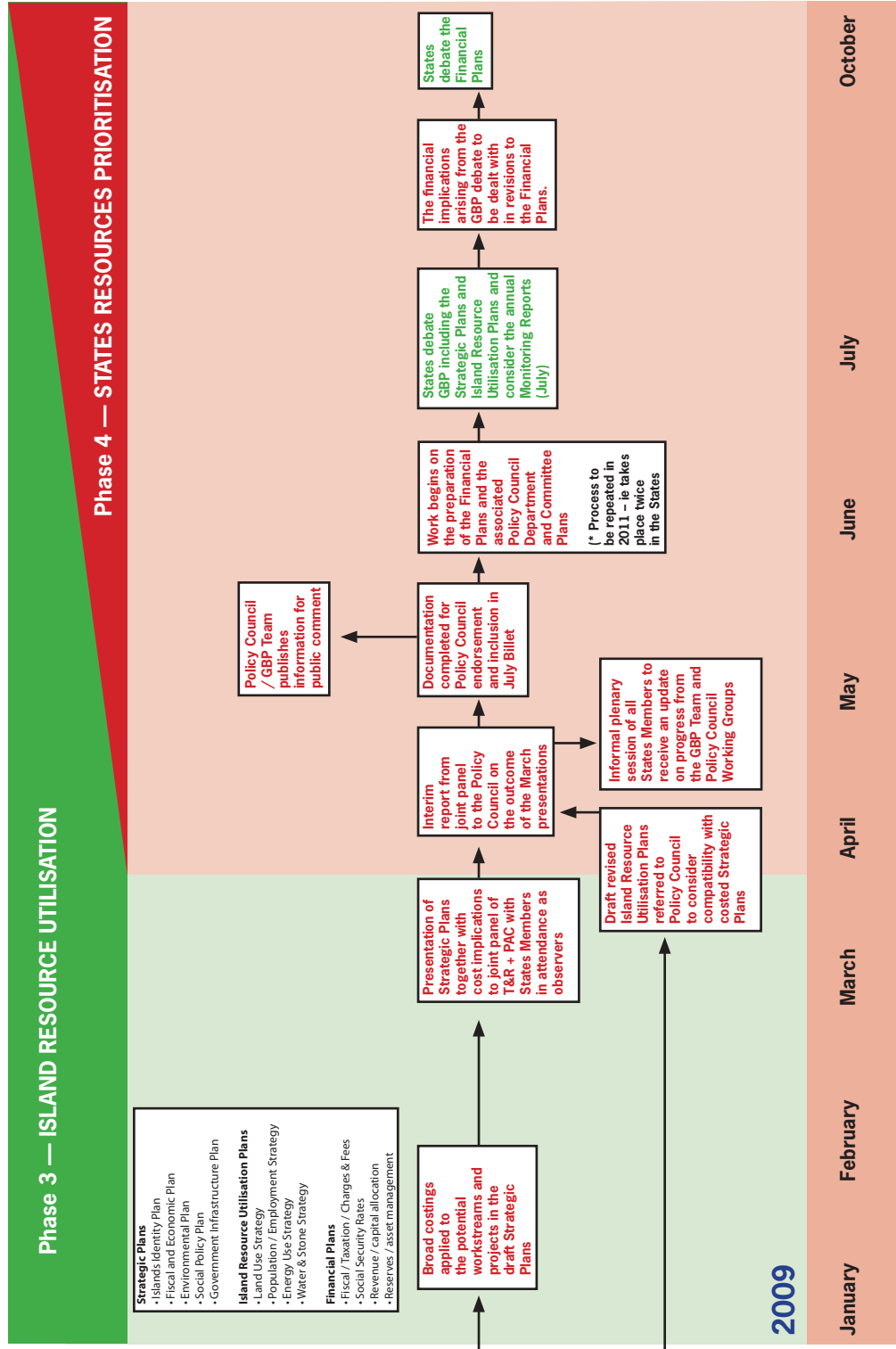


Government Business Plan: 2008-2012 Indicative timeline

N.B. This indicative timeline is being reviewed by the new Government Business Plan team



Government Business Plan: 2008-2012 Indicative timeline



This schedule lists the plans and resource strategies that are part of the five phase GBP process. It shows which group will prepare each plan and that the States Priorities will, in future, be integrated as part of the plans. The schedule also shows how the political views expressed in States Members' election manifestos can be related to this GBP structure.

PLANS/ STRATEGIES	POLICY COUNCIL STEERING GROUP	STATES PRIORITIES (as approved in 2004-2008 term)	LEVEL 2 LEADS FOR PRIORITY ACTION PLANS	SOME COMMENTS BASED ON 2008 GENERAL ELECTION MANIFESTOS – AN EARLY INDICATION OF POLITICAL VIEWS
Islands Identity Plan	External Relations Group (ERG)	<ul style="list-style-type: none"> Priority 1 – Assert Guernsey's Independent Identity 	<ul style="list-style-type: none"> ERG Culture & Leisure 	<ul style="list-style-type: none"> Manifestos indicate that there is a strong consensus in favour of maintaining Guernsey's independence.
Fiscal & Economic Plan	Fiscal & Economic Planning Group (FEPG)	<ul style="list-style-type: none"> Priority 2 – Plan for Sustainable Economic Growth Priority 3 – Contain Public Finances and Maintain Economic Growth 	<ul style="list-style-type: none"> FEPG Commerce & Employment Priority 3 is a 'stand alone' statement rather than an action plan with a lead body 	<ul style="list-style-type: none"> Mixed views about Zero 10. Support for diversifying the economy – How this is done is the issue to be addressed. Support for the finance sector – engine of the economy. Support for local businesses. Many ideas supporting prudence but also looking for ways to maintain investment in public services and infrastructure. Support for fundamental spending reviews.

PLANS/ STRATEGIES	POLICY COUNCIL STEERING GROUP	STATES PRIORITIES (as approved in 2004-2008 term)	LEVEL 2 LEADS FOR PRIORITY ACTION PLANS	SOME COMMENTS BASED ON 2008 GENERAL ELECTION MANIFESTOS – AN EARLY INDICATION OF POLITICAL VIEWS
Continued: Fiscal & Economic Plan	Continued: Fiscal & Economic Planning Group (FEPG)			<ul style="list-style-type: none"> • Support for prioritisation and longer term planning for capital spending. • Interest in exploring more innovative (eg public/private) options for generating finance. • No support for 'tax and spend' approach. • Some anxieties about the possibility of borrowing to pay for public services.
Environmental Plan	Environmental Policy Group (EPG)	<ul style="list-style-type: none"> • Priority 6 – Determine Waste Management Strategies • Priority 11 – Investigate the impact of climate change 	<ul style="list-style-type: none"> • Public Services Department • Environment Department 	<ul style="list-style-type: none"> • Lots of manifestos say waste solutions must be found but do not say what the solutions should be. • Strong support for waste reduction segregation and recycling. • Some favour public/private funding for waste management. • Some want to prioritise the treatment of liquid waste. • Climate change was not mentioned in many manifestos but some support for: <ul style="list-style-type: none"> - Planning to manage the impact on coastal defences. - Linkage with Energy Policy.

PLANS/ STRATEGIES	POLICY COUNCIL STEERING GROUP	STATES PRIORITIES (as approved in 2004-2008 term)	LEVEL 2 LEADS FOR PRIORITY ACTION PLANS	SOME COMMENTS BASED ON 2008 GENERAL ELECTION MANIFESTOS – AN EARLY INDICATION OF POLITICAL VIEWS
Continued: Environmental Plan	Continued: Environmental Policy Group (EPG)	<ul style="list-style-type: none"> • Priority 15 – Protect and enhance the environment, biodiversity and the countryside 	<ul style="list-style-type: none"> • EPG 	<ul style="list-style-type: none"> • Relatively little coverage in most manifestos but with some supporting: <ul style="list-style-type: none"> - Protection and enhancement of the environment (rural and urban area open spaces). - Achieving a balance between economic and environmental objectives. - A few voiced concerns about phone masts. - Many also had concerns about the impacts of car use and traffic on the environment.
Social Policy Plan	Social Policy Group (SPG)	<ul style="list-style-type: none"> • Priority 4 – Redistribute wealth wisely in the community 	<ul style="list-style-type: none"> • Social Security Department • Health & Social Services Department • Housing Department • Commerce & Employment Department 	<ul style="list-style-type: none"> • Manifestos generally saying a lot about social policy issues but no strong themes that would be contrary to the present GBP. • A significant number of manifestos referred to: <ul style="list-style-type: none"> - The importance of Guernsey being a 'fair' society. - The importance of social policy issues to Guernsey's future. - The need to support those who genuinely need help.

PLANS/ STRATEGIES	POLICY COUNCIL STEERING GROUP	STATES PRIORITIES (as approved in 2004-2008 term)	LEVEL 2 LEADS FOR PRIORITY ACTION PLANS	SOME COMMENTS BASED ON 2008 GENERAL ELECTION MANIFESTOS – AN EARLY INDICATION OF POLITICAL VIEWS
Continued: Social Policy Plan	Continued: Social Policy Group (SPG)	<ul style="list-style-type: none"> • Priority 7 – Take firm action against crime and the causes and effects of crime • Priority 8 – Provide best value health-care for the community 	<ul style="list-style-type: none"> • SPG • Home Department • Health & Social Services Department 	<ul style="list-style-type: none"> - The advantages of better integration between the tax and benefits systems - Concerns about the ageing population/support for older people to remain financially and physically independent. • Manifestos contained many individual ideas/perspectives on dealing with crime. There was significant support for: <ul style="list-style-type: none"> - Community policing/visible police presence. - Low level crime to be tackled. - Adequate resourcing (of law enforcement bodies). - Financial retribution (eg for acts of vandalism). - Action against substance misuse. • A number of manifestos supported: <ul style="list-style-type: none"> - Better mental healthcare facilities. - Scrutinising the cost effectiveness of off-island care. - Preventative care/healthy lifestyle choices.

PLANS/ STRATEGIES	POLICY COUNCIL STEERING GROUP	STATES PRIORITIES (as approved in 2004-2008 term)	LEVEL 2 LEADS FOR PRIORITY ACTION PLANS	SOME COMMENTS BASED ON 2008 GENERAL ELECTION MANIFESTOS – AN EARLY INDICATION OF POLITICAL VIEWS
Continued: Social Policy Plan	Continued: Social Policy Group (SPG)	<ul style="list-style-type: none"> Priority 9 – Maximise the return on investment in education provision 	<ul style="list-style-type: none"> Education Department 	<ul style="list-style-type: none"> A number of manifestos supported: <ul style="list-style-type: none"> Nursery education provision. Childcare provision. Review of primary education. Secondary school redevelopment.
Government Infrastructure Plan (Change Management Plan)	Government Business Plan Team (GBPT)	<ul style="list-style-type: none"> Priority 12 – Meet the needs of Guernsey citizens as public service clients more effectively through corporate working and streamlined delivery Priority 13 – Create a forward-looking culture amongst all public sector staff 	<ul style="list-style-type: none"> GBP Team Scrutiny Committee and Public Accounts Committee Formerly Staff Steering Group – now GBPT Public Sector Remuneration Committee 	<ul style="list-style-type: none"> Substantial support for: <ul style="list-style-type: none"> More open and transparent government. More accountability to the public. Value for money and greater efficiency. Better two-way communication. More corporate working. A costed GBP. Not much reference to this topic in the manifestos but a few wanted to see: <ul style="list-style-type: none"> ‘Can do’ / ‘will do’ attitudes. Better team working to achieve objectives. A more efficient approach.
NB: Priority 14 – Actively prioritise legislation is not currently allocated to a Policy Council steering group but is overseen by the Council as a whole.				

PLANS/ STRATEGIES	POLICY COUNCIL STEERING GROUP	STATES PRIORITIES (as approved in 2004-2008 term)	LEVEL 2 LEADS FOR PRIORITY ACTION PLANS	SOME COMMENTS BASED ON 2008 GENERAL ELECTION MANIFESTOS – AN EARLY INDICATION OF POLITICAL VIEWS
Land Use Strategy (Strategic Land Use Plan (SLUP))	Strategic Land Planning Group (SLPG)	The Strategic Land Use Plan will meet land and accommodation needs set out in the Economic, Social and Environmental Plans. In this way the SLUP will respond to the States priorities for those areas of government policy.	N/A	<p>There was reference to land planning matters in a significant number of manifestos.</p> <ul style="list-style-type: none"> • Several commented on the need to improve the flexibility openness, efficiency and resourcing of the planning service. • Others referred to individual issues (eg phone masts, runway extension, architectural styles) but there was no strong theme in this respect.
Population / Employment Strategy	Population Policy Group (PPG) (Succeeding the former Demographics and Labour Utilisation Groups)	<ul style="list-style-type: none"> • Priority 5 – Control and monitor population growth 	<ul style="list-style-type: none"> • PPG 	<p>A substantial number of manifestos were strongly against population growth. There was, however, some recognition that population policy must relate to States Economic, Social and Environmental Policy objectives.</p> <ul style="list-style-type: none"> • Several manifestos supported action to maximise the number of local people in the workforce including encouraging older people to stay in employment.

PLANS/ STRATEGIES	POLICY COUNCIL STEERING GROUP	STATES PRIORITIES (as approved in 2004-2008 term)	LEVEL 2 LEADS FOR PRIORITY ACTION PLANS	SOME COMMENTS BASED ON 2008 GENERAL ELECTION MANIFESTOS – AN EARLY INDICATION OF POLITICAL VIEWS
Energy Use Strategy	Energy Policy Group (EPG)	<ul style="list-style-type: none"> • Priority 10 – Meet energy needs more efficiently and sustainably 	<ul style="list-style-type: none"> • EPG 	<p>Numbers of manifestos made reference to energy policy issues expressing support for:</p> <ul style="list-style-type: none"> • Energy policy objectives. • Sustainable energy solutions.
Water and Stone Strategy	Responsibility for reviewing the water and stone strategy is yet to be agreed. It may be possible to assimilate the strategy within the Environmental Plan	N/A	N/A	The management of water and stone resources was not directly mentioned in any manifestos.

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

The States are asked to decide:-

XV.- Whether, after consideration of the Report dated 26th June, 2008, of the Policy Council, they are of the opinion:-

To note the contents of that Report including the intention to update the States again through a further report in October 2008.

TREASURY AND RESOURCES DEPARTMENT

PROPOSED TAXATION OF BENEFITS IN KIND THROUGH THE EMPLOYEES TAX INSTALMENT (“ETI”) SCHEME – INFORMATION EXCHANGE BETWEEN THE INCOME TAX OFFICE AND SOCIAL SECURITY DEPARTMENT

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

28th May 2008

Dear Sir

1. **Executive Summary**

- 1.1. The purpose of Part 2 of this Report is to seek approval to amend that part of the Income Tax (Guernsey) Law, 1975, as amended (“the Law”) which deals with the types of income that are subject to deduction of tax under the ETI Scheme, to ensure that, with effect from 1 January 2009, this will encompass any benefits in kind which are chargeable to income tax.
- 1.2. Part 3 of this Report seeks approval to amend both the Law and the Social Insurance (Guernsey) Law, 1978 (“the Social Security Law”), in order to provide for the exchange of information, between the Income Tax Office and Social Security Department, and vice versa, for the purpose of ensuring the more efficient assessment and collection of income tax and social security contributions.

2. **Proposed Taxation of Benefits in Kind through the Employees Tax Instalment (“ETI”) Scheme**

Background

- 2.1. An employee is chargeable to tax on his “emoluments”. Benefits in kind are included in the definition of emoluments. Guernsey has had an organised system for the valuation and taxation of benefits in kind since 1996.

There are many examples of assets, services etc., which are enjoyed by employees as a consequence of their employment which constitute benefits in kind. Statistics held by the Income Tax Office show that the most prevalent

benefits in kind enjoyed by Guernsey residents are the provision of accommodation and the use of a motor vehicle (“a company car”).

- 2.2. Under the ETI Scheme an employer is required to deduct tax from an employee’s emoluments but the present legislation only applies the provisions of the ETI Scheme where “... any payment of, or on account of, emoluments is made by an employer ...”
- 2.3. Some benefits in kind involve the making of payments. For example, an employee may incur a private expense, the bill for which is met by the employer. As the payment the employer is making is on account of the employee’s emoluments then such a payment would be covered by the ETI Scheme and tax should be deducted accordingly.
- 2.4. The majority of benefits in kind arise, however, because an employee is given the use of something that does not belong to him (such as the use of a company car). The provision of such benefits in kind do not fall under the ETI Scheme.
- 2.5. Since 1996, employers have been required to complete an annual return detailing the value of the benefits in kind that have been provided to each employee. On that return the employer has to show the types of benefits in kind which have been provided, under several headings, and he is also required to identify which, if any, have been taxed through the ETI Scheme. Tax due on the remainder of the benefits in kind is dealt with when the Administrator issues assessments to the relevant employees.
- 2.6. Whilst the system described above is robust, in the context that benefits in kind provided to employees are ultimately charged to tax, there is a resource implication within the Income Tax Office (insofar as a member of the Administrator’s staff has to analyse the benefits in kind returns received from employers and disseminate the information contained therein to the relevant employees’ files, and Income Tax Office officials have to assess, on the individual employees, what are often relatively small amounts of benefits in kind and collect the tax arising). This use of the Income Tax Office’s resources would be considerably reduced if the appropriate amounts of tax due in relation to the benefits in kind were deducted, by the employer, when he operates the ETI Scheme (for the week/month, as appropriate, in which the benefit was made available to the employee). This tax would be sent to the Administrator along with all other tax that the employer had deducted under the ETI Scheme in relation to wages, salaries, commissions, bonuses, etc.
- 2.7. Income Tax Office statistics show that during the calendar year 2006 (the year for which the most reliable information is currently available):
 - 331 Guernsey employers provided benefits in kind to employees (equivalent to approximately 1 in 11 employers).

- 1146 employees received benefits in kind.
 - The tax yield from benefits in kind was approximately £640,000.
- 2.8. Apart from the resource implications referred to above, there is little by way of an income tax issue in relation to benefits in kind. By contrast, however, the Social Security Department currently collects contributions on only limited benefits in kind but proposes that this should be extended to include similar benefits, and similar values, as used by the Income Tax Office. The Social Security Department has reported to the Administrator of Income Tax that there appears to be a trend for employers increasingly to provide benefits in kind instead of cash based emoluments, and that one of the reasons for this may be the avoidance of social security contributions.
- 2.9. The Social Security Department currently has no mechanism by which it can economically identify benefits in kind which are received by employees and economically charge contributions unless the benefits in kind are treated as part of the employee's total emoluments for the purposes of the ETI Scheme (in which case social security contributions would be automatically charged accordingly).
- 2.10. Historically, the Social Security Department has made the assumption that the majority of benefits in kind would be provided to the better remunerated employees and as those employees were probably already paying maximum, or near maximum, social security contributions, the resource cost of trying to collect social security contributions on benefits in kind would probably outweigh the potential gain.
- 2.11. The Social Security Department believes, however, that the recent increase in contributions (to an upper earnings limit of £53,664 for 2007 and £64,896 for 2008, for employees and £108,108 in the case of an employer) gives rise to two consequences:
- more employees who receive Benefits in Kind will fall within the new upper earnings limit (and would, therefore, escape social security contributions on the Benefits in Kind they receive unless they are dealt with through the ETI Scheme);
 - the increasing upper earnings limit may actually encourage the use of schemes designed for the avoidance of social security contributions in the future.
- 2.12. No statistical information is available from Income Tax databases which would help evaluate the likely extent of the loss of social security contributions from benefits in kind. It is clearly unfair, however, that if an employee is remunerated solely in cash he should pay a higher social security contribution than another

employee who receives the same aggregate total of emoluments but part of whose remuneration package consists of the provision of benefits in kind.

Detailed Proposals

- 2.13. At the request of the Social Security Department, the Treasury and Resources Department proposes that section 81A(2) of the Law be revised to make it clear that in addition to payments of, or on account of, emoluments made by an employer, deductions of tax under the ETI Scheme should also be made in respect of benefits in kind which are provided to employees in the pay period (e.g. weekly or monthly) in which the benefit was provided.
- 2.14. In formulating these proposals, the Department has taken account of the responses received from a public consultation exercise in which all Guernsey employers who, according to the records of the Income Tax Office provided benefits to their employees, were canvassed with regard to their views on the proposals.

Of the 331 Guernsey employers consulted, 28 provided responses (8.46%).

Of the 28 responses, 12 (43% of the total) had no objections to the proposal, in principle. The remainder of the employers who responded to the consultation exercise (representing 4.85% of Guernsey's employer population) raised a number of issues, mostly administrative in nature. Whilst the Department recognises that the issues raised by this small percentage of the island's employers are real issues for those individual businesses, in the interest of fairness to all employees and to ensure the proper and efficient collection of income tax and social security contributions, it is in the public interest that the Law be revised as proposed at paragraph 2.13 above.

- 2.15. The Department proposes that the legislation should come into effect from 1 January 2009.

3. Information Exchange between the Income Tax Office and Social Security Department

Background

- 3.1. As a consequence of an Oath of Secrecy that has to be taken by every person working in the Income Tax Office, there are significant restrictions on the persons to whom the Administrator may give information provided to him by taxpayers, employers, etc. Section 206(7) of the Law provides that information can be disclosed to the Social Security Department but this is restricted to the name and address of any employer and the address of any other person.
- 3.2. Section 111 of the Social Insurance Law also places restrictions on the extent to which the Administrator, Social Security Department, may disclose information

to persons outside of the Department. Without the consent of the person to whom the information relates, this is limited, mainly, to disclosures for the purposes of criminal proceedings or for the investigation of crime, and a limited power to disclose information (other than in relation to the income of a person) where the purpose of the disclosure is approved by the Department.

- 3.3. Whilst the purposes of the Income Tax Office and the Social Security Department are, inter alia, to collect income tax and social security contributions respectively, both organisations use a person's income as the basis for assessing the amount of the tax and contributions. As a consequence there are many occasions when the work of the Income Tax Office and the Social Security Department overlap.
- 3.4. Indeed, with the consent of the person concerned, the Income Tax Office already provides information to the Social Security Department, to enable it to assess, for example, contributions due from the self-employed and non-employed. It is clear to both Treasury and Resources Department and the Social Security Department, however, that if there was a formal gateway providing for the exchange of information, in both the Law and the Social Insurance Law, this could lead to the avoidance of the duplication of effort and more efficient assessment and collection of both income tax and social security contributions.
- 3.5. The Government Business Plan (Billet XVIII of 2007 at page 1368) includes, at Priority 4 - Level 4:

“C. Consider how savings might be achieved by merging and consolidating the collection, payment and treasury systems which, at times, overlap in the respective mandates of the Treasury and Resources Department and the Social Security Department.

- a) Undertake a joint review to assess the feasibility and potential resources and cost savings of merging and consolidating income tax and social security contributions collection, payment and treasury systems.”
- 3.6. Whilst acknowledging the aim of this priority, in the Government Business Plan, the Treasury and Resources Department and the Social Security Department recognise that such change should only be undertaken after careful consideration, and investigation, of the possible consequences this may have on the administration of the Law and the Social Insurance Law, and the effect this could have on States revenues.

It is apparent, however, that some short term improvements can be made which would lead to a closer working relationship between the Income Tax Office and the Social Security Department, as well as the more efficient collection of States revenues.

Detailed Proposals

- 3.7. The Treasury and Resources Department proposes that the Law be revised to provide that the Administrator and Assistant Administrator of Income Tax may pass information, including information relating to income, which they have received in the exercise of their official functions, to the Administrator, Social Security Department, for the purpose of assisting the Administrator, Social Security Department, in fulfilling his functions under the Social Insurance Law; and the Administrator, Social Security Department, may in turn use the information so provided for the purpose of carrying out those functions.
- 3.8. The Social Security Department proposes that the Social Insurance Law be similarly revised to allow the Administrator, Social Security Department, to pass information, including information relating to income, to the Administrator or Assistant Administrator of Income Tax for the purpose of assisting the Administrator or Assistant Administrator in the exercise of their functions under the Law; and the Administrator and Assistant Administrator of Income Tax may in turn use the information so provided for the purpose of carrying out those functions.
- 3.9. The Departments propose that the legislation should come into effect on the date of its registration by the Royal Court.

4. Recommendations

The Treasury and Resources Department recommends the States:

- 4.1. to approve the proposals concerning income tax, as set out in this Report, and to agree that legislation is enacted accordingly;
- 4.2. considering it expedient in the public interest so to do, to declare, pursuant to section 1 of the Taxes and Duties (Provisional Effect) (Guernsey) Law 1992, that a Projet de Loi enacted to implement the proposals contained in part 2 of this Report shall have effect from 1 January 2009, as if it were a law sanctioned by Her Majesty in Council and registered on the records of the island of Guernsey.

Yours faithfully

C N K Parkinson
Minister

(NB The Policy Council has no comment on the proposals.)

The States are asked to decide:-

XVI.- Whether, after consideration of the Report dated 28th May, 2008, of the Treasury and Resources Department, they are of the opinion:-

1. To approve the proposals concerning income tax, as set out in that Report, and to agree that legislation shall be enacted accordingly.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.
3. Considering it expedient in the public interest so to do, to declare, pursuant to section 1 of the Taxes and Duties (Provisional Effect) (Guernsey) Law 1992, that a Projet de Loi enacted to implement the proposals contained in part 2 of that Report shall have effect from 1 January 2009, as if it were a law sanctioned by Her Majesty in Council and registered on the records of the island of Guernsey.

TREASURY AND RESOURCES DEPARTMENT

INTERIM FINANCIAL REPORT

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

2nd June 2008

Dear Sir

I enclose a copy of the above Report which I should be grateful if you would lay before the States.

Yours faithfully

C N K Parkinson
Minister

(NB The Interim Financial Report, which is appended to this Report, is published separately.)

(NB The Policy Council has no comment on the proposal.)

The States are asked to decide:-

XVII.- Whether, after consideration of the Report dated 2nd June, 2008, of the Treasury and Resources Department, they are of the opinion:-

To note that Report.

HOME DEPARTMENT

AMENDMENT TO THE CRIMINAL JUSTICE (MISCELLANEOUS PROVISIONS) (BAILIWICK OF GUERNSEY) LAW, 2006

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

16th June 2008

Dear Sir

1. Executive Summary

The purpose of this report is to strengthen the controls on knives and other bladed or sharply pointed articles to prevent them from being carried or used for unlawful purposes.

The Report recommends making it an offence to:

- (1) Sell, offer for sale or attempt to sell knives or other bladed or sharply pointed articles to persons under the age of eighteen years.
- (2) Market a knife or other bladed or sharply pointed weapon in a way which either indicates, or suggests, that it is suitable for combat or is otherwise likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon.

The Report also recommends giving the courts the power to order the forfeiture and destruction of seized articles if a person has been convicted of an offence relating to bladed articles and offensive weapons.

Further, the Report recommends strengthening the police powers under the Police and Criminal Evidence (Bailiwick of Guernsey) Law, 2004 in respect of stop and search where an officer has reasonable suspicion that a person is in unlawful possession of a knife or other bladed or sharply pointed item.

2. Introduction

In April 2006 the States approved the drafting of the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006. Amongst the provisions under the law

are new offences relating to the possession of any article which has a blade or is sharply pointed in a public place unless the individual can show that he had good reason or lawful authority for having the article with him. There are also provisions concerning the possession of bladed etc. articles on school premises.

The Chief Officer of Police has advised the Department that there appears to be a developing culture, particularly amongst young people, to carry knives. Whilst this developing culture does not appear to be nearly as prevalent as in many towns and cities on the mainland, the Chief Officer of Police has requested that consideration be given to strengthening the legislation relating to the sale and marketing of knives and other bladed or sharply pointed articles.

The Department shares the Chief Officer of Police's concerns and is conscious that, although incidents involving the unlawful use of knives are relatively few, the consequences can, and indeed in recent times have, resulted in the most tragic of outcomes.

The Department has, in consultation with the Chief Officer of Police and HM Procurer, considered whether introducing restrictions on the sale, marketing and purchase of knives and other bladed weapons may help prevent any such further tragedy as recently occurred in the Island.

The Department recognises that knives are freely and easily accessible. They are common household instruments and anybody intent on unlawfully carrying a knife needs to do little more than open a kitchen drawer. However, the Department concluded, on balance, that the introduction of a minimum age when somebody could lawfully purchase a knife could serve to raise awareness to the potential harm that a knife, in the wrong hands, can cause.

The Department fully appreciates that legislation cannot, by itself, prevent somebody from using a knife to injure another person. However, it contends that the proposals set out in the Report are a proportionate response to concerns about an apparent trend amongst some young people to carry knives or other bladed weapons.

3. UK Legislation

In the UK there are two principal pieces of legislation which control the sale, marketing and purchase of knives, bladed and sharply pointed articles. These are the Criminal Justice Act 1988 as amended and the Knives Act 1997.

The provisions under section 139 of the Criminal Justice Act 1988 concerning the possession of bladed articles and offensive weapons in a public place and on school premises have been introduced locally in the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006.

The Criminal Justice Act 1988 also contains provisions about persons having knives, other articles which have a blade or are sharply pointed or offensive weapons and

selling knives or such articles to persons under the age of eighteen years. [it should be noted that the Act initially only applied in respect of persons under sixteen but this was changed by amendment in 2006, save in respect of the sale of knives or bladed instruments designed for domestic use. These may still be sold to persons aged sixteen or over].

The Knives Act 1997 makes it an offence for a person to market a knife in a way which either indicates, or suggests, that it is suitable for combat or is otherwise likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon. The Act defines the meaning of “*suitable for combat*” as suitable for use as a weapon for inflicting injury on a person or causing a person to fear injury and “*violent behaviour*” means an unlawful act inflicting injury on a person or causing a person to fear injury.

Under the Act, an indication or suggestion that a knife is suitable for combat may, in particular, be given or made by a name or description:

- (a) applied to the knife;
- (b) on the knife or on any packaging in which it is contained; or
- (c) included in any advertisement which, expressly or by implication, relates to the knife.

Further a person markets a knife if he:

- (a) Sells or hires it;
- (b) Offers, or exposes, it for sale or hire; or
- (c) Has it in his possession for the purpose of sale or hire.

The UK legislation provides a range of statutory defences. For example, under the Criminal Justice Act, 1988, it is a defence for the person accused to prove that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Under the Knives Act, 1997, the statutory defences include cases where it can be shown that the relevant article was marketed for use by the armed forces of any country or as an antique or curio. However, it must also be shown that it was reasonable for the article to be marketed in that way and that there were no reasonable grounds for suspecting that a person, into whose possession it might come as a consequence of the marketing, would use it for an unlawful purpose .

Section 5 of the Knives Act provides the Police with powers of entry, seizure and retention in relation to the investigation of such offences and for the Courts to order the forfeiture and destruction of any articles so seized following conviction of an offence

under the Act. In addition to these specific powers, section 60 of the Criminal Justice and Public Order Act 1994 as amended affords the Police additional powers to stop and search in the following circumstances:

- “(1) If a police officer of or above the rank of inspector reasonably believes -*
- (a) that incidents involving serious violence may take place in any locality in his police area, and that it is expedient to give an authorisation under this section to prevent their occurrence, or*
 - (b) that persons are carrying dangerous instruments or offensive weapons in any locality in his police area without good reason,*
- he may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding 24 hours.”*

4. Recommendations

The Department believes that there is merit in introducing similar provisions to those outlined above locally. It therefore proposes that the legislation be prepared to make it an offence for any person to:

1. Sell, offer for sale or attempt to sell knives or other bladed or sharply pointed articles to persons under the age of eighteen years.
2. Market a knife or other bladed or sharply pointed weapon in a way which either indicates, or suggests, that it is suitable for combat or is otherwise likely to stimulate or encourage violent behaviour involving the use of the knife as a weapon.

Although, as indicated above, it is permissible in the UK to sell knives or bladed articles designed for domestic use to persons aged sixteen or over, the proposal is that the sale of all knives or bladed instruments to persons under the age of eighteen should be banned. The majority of knife related offences committed by minors in the UK involve kitchen knives and in the view of the Department an exemption in respect of domestic articles would undermine the strong message that this legislation is intended to convey.

The Department recognises that the imposition of a minimum age may present some difficulties for retailers. However, it is conscious that a “proof of age” card is now available through the Drug and Alcohol Strategy. Whilst these cards are primarily designed as proof of age for the purchase of alcohol there would be nothing to prevent retailers selling knives and other bladed or sharply pointed articles to ask to see the “proof of age” card before allowing the purchase.

It also proposes that the Police Powers and Criminal Evidence (Bailiwick of Guernsey)

Law, 2004 be amended to afford the police equivalent powers for entry, search and seizure under section 5 of the Knives Act 1997 and the power to stop and search where an officer has reasonable suspicion that somebody may be in unlawful possession of a knife or other bladed or sharply pointed articles as available in the UK under the Criminal Justice and Public Order Act 1994.

Whilst it is recognised that such powers are unlikely to be used very often the Department believes that their availability could prove a valuable tool to the Guernsey Police when undertaking their duties.

It is further proposed that the courts be given the same powers as exist under section 5 of the Knives Act 1997 in respect of the confiscation and destruction of seized items.

Finally, the Department proposes that the local legislation should include parallel statutory defences as those created under the UK legislation.

It is firmly of the view that such additional offences and provisions will serve as a further deterrent to those minded to purchase, possess or use knives and bladed articles for purposes other than those for which they were designed or intended.

The Department's recommendations accord with Priority 7 of the Government Business Plan as, if approved, the proposals will help to promote and support policies which keep the Bailiwick a safe and secure place to live. The proposed new offences will assist the Guernsey Police in taking firm action against crime and tackling the situations which give rise to criminal behaviour.

Further, in accordance with the objectives set out at level 2 of the Plan the Department believes that its recommendations demonstrate a proactive and responsive approach to concerns expressed by the general public about an emerging trend by some people, particularly young people, to carry knives in public.

5. Consultation with HM Procureur

Her Majesty's Procureur has been consulted throughout and concurs with the proposals as set out in this Report.

6. Resources

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

7. Conclusion

The Department recommends the States:

- a) To approve the Department's proposals for amending the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 as set out in this

Report;

- b) To approve the Department's proposals for amending the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2004 as set out in this Report
- c) To direct the preparation of such legislation as may be necessary to give effect to the foregoing and as otherwise set out in this Report.

Yours faithfully

G H Mahy
Minister

(NB The Policy Council has no comment on the proposals.)

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

The States are asked to decide:-

XVIII.- Whether, after consideration of the Report dated 16th June, 2008, of the Home Department, they are of the opinion:-

- 1. To approve the Department's proposals for amending the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 as set out in that Report.
- 2. To approve the Department's proposals for amending the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2004 as set out in that Report.
- 3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

PUBLIC SERVICES DEPARTMENT

GUERNSEY HARBOURS – FUTURE CRANE AND QUAY STRATEGY

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

19th June 2008

Dear Sir

Executive Summary

1. This report seeks to advise the States of Deliberation of the vitally essential need to replace the St Peter Port Harbour cranes, as these have reached the end of their useful lives. This report also explains the associated need to carry out repairs to the quay infrastructure (Berths 4, 5, 6, Pier Head and Northern Arm) principally to ensure it is strong enough to carry the weight of the two mobile cranes which are being proposed to replace the two fixed derrick cranes and one fixed portal crane plus two rail mounted cranes currently in situ.
2. Guernsey Harbours handle on a daily basis 98% of the Island's imported and exported cargo. Lift on-Lift Off (Lo-Lo) operations, which require the use of cranes, account for one third of this figure. The Department's Future Crane and Quay Strategy covers both the replacement of the St. Peter Port Harbour cranes and the associated works to the quays. The Department seeks the States' approval of this strategy, which has been put in place to ensure that the Port continues to provide reliable freight facilities which meet current and projected requirements.
3. The operation of the cranes and the freight handling services at the Harbours are vital in supplying and servicing the Island. Freight handling is a key commercial revenue-earning activity of the ports and plays an important strategic role within the Bailiwick, providing a clear business case for investment.
4. The cost at 2007 prices has been estimated at £10m. The Public Services Department is asking for permission to go out to tender which will establish a firm price. The funding for the Future Crane and Quay Strategy will come from the Ports Holding Account which is made up of revenues from the Harbours and Airport. The money will be recovered from income derived from commercial port dues over the anticipated useful life of the assets (25 years for the cranes and 50 years for the berths).

5. It is however recognised that the project will be drawing money from the Ports Holding Account at the same time as another significant and competing call is being made for essential improvements to the Airport runway.
6. The States has agreed to review the funding mechanisms for the Airport, and as a consequence the Harbours, and the Ports Holding Account in Action Points 26, 27 & 28 of the Strategic and Economic Plan. The work on this review is underway and is being led by the Fiscal and Economic Steering Group of the Policy Council, working in conjunction with the Public Services, Commerce and Employment and Treasury and Resources Departments. Any final conclusions are still some way off but it seems almost inevitable that meeting the capital requirements of the Harbours and Airport over the next few years will require some form of borrowing. Such long term funding arrangements must be a matter for the States to debate and to approve any decisions with regard to the timeframes within which any investments or loans are to be repaid.

Introduction

7. The port infrastructure is of vital strategic importance to the Bailiwick, with 98% of all material items arriving and departing by sea. Should a crane become inoperative, there is an increasingly real danger that it will not be able to be repaired at a viable cost and within an acceptable timeframe. For example, the last sizeable crane repair required parts to be sourced from South Africa and took some six months before the crane was functioning again, which caused considerable operational difficulties. The effect of non-delivery of freight would be recognised within a very short space of time by the Guernsey public and have a significant impact.
8. The replacement of the St Peter Port Harbour cranes and associated works to the quays, as set out in this report, are therefore considered to be essential for the long-term viability of the Harbour and of the Bailiwick in general.

Current Situation

9. The five Harbour cranes have been well maintained and are in generally good structural condition, considering their ages, which range from 35 to 60 years old. They are, however, at the end of their useful lives, increasingly expensive to maintain, parts are difficult to source, and, in spite of electrical refurbishment carried out to various degrees on all of the cranes, **reliability and availability is not of the standard expected of a commercial harbour and will continue to decline further in the years to come.**
10. The cranes currently service Berths 4, 5 and 6, which provide the facilities for the import and export of all Guernsey's Lo-Lo freight (a diagram showing the location of the berths, together with Pier Head and Northern Arm is attached at Appendix 1).

11. Cranes at St Sampson's Harbour date from 1986, are lightly used, well maintained, and have reasonable life expectancy; therefore they are not considered in this report.

Halcrow Report

12. In March 2007, invitations to tender for a report on the condition of the St Peter Port crane infrastructure were issued to specialist consultants. Following a tendering exercise, Halcrow was selected to carry out the consultancy work. Halcrow first issued its report in August 2007 and presented its findings to the Public Services Department on 26 October 2007. The report included comment on the condition of Berth 6, Pier Head and Northern Arm (upper walkway) as these structures form an integral part of the quay infrastructure. A copy of the Halcrow report, "Future Use of Berths 4, 5 & 6" is lodged at the Greffe for information.
13. Halcrow surveyed the condition of the quays, completed a market study and looked at existing cranes and future strategy. The deliverables of the report were:
 - A review of existing freight movements and predictions of future movements.
 - Options for freight management and optimisation of existing facilities.
 - Standalone report on the condition of the existing structures including the Harbour walls and White Rock walkway (as appendix to main report).
 - Load capacity of the existing structure.
 - Options, recommendations and costs (both capital and revenue) for provision of cranes.
 - Strengthening requirements for proposed cranes and the associated costs.
 - Schedule of repair works and predicted costs.
 - Maintenance and monitoring schedule for the next 10 years.

Report Conclusions

14. The report set out the requirements for a structural survey in respect of the berths, made recommendations on the suitability of various crane types, and highlighted the inter-relationship between the berths, quays and cranes.

Consultation

15. Substantive input was received from the Guernsey Commercial Port Users Association to verify facts, observations made, and conclusions drawn.

Report Recommendations - Cranes

16. Modern harbour cranes can operate much faster than the older cranes, leading to improved operating efficiencies. It is therefore anticipated that two new cranes will be sufficient to replace the existing five, if the current volume of imports does not grow significantly beyond the levels currently predicted.
17. Looking at future Lo-Lo freight requirements, a comprehensive range of options was considered including mobiles, rail mounted cranes, jetty realignment, re-use of pedestal foundations, cranes of different sizes and a combination of these.
18. **It was concluded that harbour mobiles were the preferred option.** It should be noted that the harbour mobiles are less expensive than the alternative rail-mounted cranes and will allow for a sufficient cargo storage area for the predicted growth identified in the market study.
19. The option of using harbour mobiles has already been proven to work on routes to and from Guernsey as both Jersey and Portsmouth harbours use these for handling Lo-Lo freight.
20. One operationally significant consequence arising from replacement of the existing cranes will be the loss of an appropriate site for the important, main Search and Rescue and Port Surveillance Camera, currently located on top of the Derrick Crane at No. 5 Berth. It will not be practicable to have such equipment mounted on a mobile crane and currently the only other identified site providing equivalent coverage would be on Castle Cornet.

Report Recommendations - Berths and Quays

21. The cranes depend on the strength of their supporting structures, i.e. Berths 4, 5 & 6, for their load carrying capability. The choice of crane and schedule of works for repairs at the Harbour berths are therefore inextricably linked as deployment of harbour mobiles at St Peter Port will be restricted by the load bearing capacity of the quay structure.
22. A condition assessment of the berths has been carried out and has identified a number of areas where remedial work and future monitoring and maintenance is required.
23. A summary of the condition of the Berths, Pier Head and Northern Arm, and recommendations for their repair, are given below. Further details can also be found in the Halcrow Report “Future Use of Berths 4, 5 & 6”, which is lodged at

the Greffe and is also available on the States website: www.gov.gg. **A diagram showing the quay infrastructure can be found at Appendix 1.**

No. 4 Berth

24. Repair to the underside of the concrete deck where the reinforcement is starting to corrode is essential. This should be extended to those areas not currently showing sign of corrosion. The Halcrow report describes repair options and methods.
25. The knuckle between Berths 4 and 5 requires repair and protection to reduce corrosion.
26. In summary, Berth 4 requires reinstatement work to regain the original design specification and would also benefit from the installation of a cathodic protection system which would prevent any further corrosion and extend the life of the structure. The estimated cost for the works to Berth 4 is £4.3m.
27. The cathodic protection system for the reinforced concrete in Berth 4 is anticipated to be somewhat simpler than that for the New Jetty as the concrete deck is far newer, having been constructed in the 1970's (as opposed to the New Jetty in the 1920's). It also has many fewer beam and columns than the New Jetty.

No. 5 Berth

28. No. 5 Berth is largely an original blockwork gravity retaining wall with a landing stage at the middle of the berth. The paved area landward is heavily worn where settlement has occurred, however the quay wall is in good condition.
29. The structure of the landing stage is showing signs of corrosion and cracking. Corrosion to the supporting beams and reinforced concrete decks needs to be arrested and localised concrete repairs carried out to those areas that are worst affected. The extent of corrosion to the reinforced concrete decks requires further investigation to ascertain whether the degradation of the concrete is too far advanced for the application of a protection system, in which case reinstatement by the demolition and replacement of a new deck would be necessary. The paving area landward also requires excavation and replacement.
30. Berth 5 does not currently have sufficient capacity to support the loads associated with new mobile harbour cranes. Three options for improvement works at No. 5 Berth are presented in the Halcrow Report as follows:
 - Option 1 is described as a new loading platform landward of the landing stage.

- Option 2 is described as replacement of the existing landing stage with a new loading platform. This would require complete demolition of the existing landing stage and loading deck. This is the Department's preferred option (2B), the reasons for which are set out below.
 - Option 3 comprises construction of a new jetty seaward of the existing berth line. This would require complete replacement of the landing stage and, as Berth 5 has insufficient structural capacity, a new deck/loading platform is required.
31. Costs vary widely depending on the option selected and crane manufacturer chosen, but are estimated to be between £0.75m and £2.54m. The results of a ranking exercise of the different options can be found in the second table at paragraph 42.

No. 6 Berth

32. This is a gravity retaining blockwork structure. The fill behind the walls is of poor quality, described on old drawings as 'rubbish filling'. There is severe cracking along the concrete floor of the lower landing level which would appear to have occurred a long time ago. There are no signs of recent movement.
33. The quay wall appears in good condition. The topsides show evidence of significant settlement at various locations, although none of it appears to be recent.
34. Corrosion to the supporting beams and columns needs to be arrested and localised concrete repairs carried out to those areas that are worst affected. The extent of corrosion in the concrete decks and its thickness suggest that it may be past repair and further investigation is recommended to ascertain the extent of degradation of the concrete and reinforcing steel. If this is confirmed, a new deck will be required.
35. In summary, the report concludes that Berth No. 6 cannot be upgraded to have the strength required for passage of large mobile harbour cranes. Operational solutions have been identified which solve this problem (for example the mobiles will have a long enough reach to extend over Berth 6 and carriers will be reallocated to Berths 4 and 5), but remedial works will still be required and are estimated to cost approximately £0.85m.

Pier Head

36. This is a masonry blockwork gravity wall. It is understood that the inside is only partly filled due to problems with settlement during construction. The external walls are in generally good condition. There are localised areas where the blockwork is poor and on the north-eastern corner there is a vertical crack which indicates movement of the structure. Comparing the 1987 and 2007 photos of

this section of the structure, it would appear that the crack has worsened and will require essential maintenance.

37. Halcrow estimate the cost of the recommended monitoring regime and maintenance of the mortar joints in the blockwork wall to be circa £10,000 – 15,000 per annum over the next 5 – 10 years.

Northern Arm

38. This is a gravity retaining masonry structure with regular buttresses. The general condition of the inside face that was accessible at the time of survey, was good. There is evidence of movement of the wall seaward.
39. Both Pier Head and Northern Arm require repairs to mortar on an ongoing basis. Monitoring stations need to be set up on the inside face and regularly measured to determine whether the apparent seaward movement is continuing.
40. As with Pier Head, Halcrow estimate the costs of monitoring and maintenance of Northern Arm to be circa £10,000 – 15,000 per annum over the next 5 – 10 years.
41. All of the above works are essential if Guernsey is to continue to benefit from reliable and efficient Lo-Lo freight handling of goods to and from the Island.

Cost Estimates

42. The table below contains the budget cost estimates for each option considered for the purchase of cranes and remedial works to berths:

	Option 1A	Option 1B	Option 2A	Option 2B	Option 3A	Option 3B
Manufacturer	Liebherr	Gottwald	Liebherr	Gottwald	Liebherr	Gottwald
Investigations	100,000	100,000	100,000	100,000	100,000	100,000
Berth 4 Remedials	4,313,000	4,313,000	4,313,000	4,313,000	4,313,000	4,313,000
Berth5 Improvements	1,404,000	1,153,000	723,000	742,000	2,539,000	2,539,000
Berth 6 Remedials	857,000	857,000	857,000	857,000	857,000	857,000
Total Berth Upgrade Cost	6,574,000	6,323,000	5,893,000	5,912,000	7,709,000	7,709,000
Crane Cost	2,014,000	2,740,000	2,014,000	2,740,000	2,014,000	2,740,000
Management Costs	657,400	623,300	589,300	591,200	770,900	770,900
Total	9,345,400	9,795,300	8,596,300	9,343,200	10,593,900	11,319,900

Table 1: Cost Estimates for Each Option

A ranking exercise for the Berth 5 Improvement Works was then undertaken:

	Option 1A	Option 1B	Option 2A	Option 2B	Option 3A	Option 3B
Restricted Operation (scored 1-5)	1	4	3	5	4	5
Capital Cost (ranked 1-6)	4	3	6	5	2	1
Improved Cargo Storage Facilities (scored 1-5)	1	2	3	3	5	5
Use of Cranes at Berth 6 (scored 0 or 1)	0	0	0	0	1	1
Maintenance Commitment for New Structures (scored 1-3)	3	3	2	2	1	1
Total score	9	12	14	15	13	13

Table 2: Ranking Exercise for Berth 5 Improvement Works

Key: 'A' denotes a Liebherr crane, 'B' denotes a Gottwald Crane

43. Option 2B came out top in the ranking exercise and is the Department's preferred option.
44. Option 2B came second only to Option 2A in capital cost, but this was because Option 2A used the cheaper Liebherr cranes which have a lower lifting capacity than the Gottwald cranes of Option 2B which are not as restricted. Option 2B also allows increased cargo areas and **it should be noted that adequate container space/storage slots for freight would be available to 2020 and beyond (at currently predicted levels) only if the preferred option, 2B, is implemented.**
45. Halcrow has applied a contingency/optimism bias of 40% to the cost estimates. This is based on the recommended Optimism Bias for use at Scheme Design stage from the HM Treasury "Green Book" ([http://www.hm-treasury.gov.uk/media/785/27/green Book 03.pdf](http://www.hm-treasury.gov.uk/media/785/27/green%20Book%2003.pdf)) of 30%, but takes into account the uncertainty associated with the fill material access and the associated risks relating to the piling close to existing structures. The cost estimates are therefore properly considered, constructed and robust.
46. Further investigation is required to improve the cost estimates of the work to the berths, particularly to determine the extent of cathodic protection necessary and the extent of corrosion to suspended decks at Berths 5 and 6.
47. The Department will report back to the States with firm cost estimates for the work once tenders have been received.
48. As a separate item, for completeness, the Halcrow Report made an assessment of the condition of, and costed proposals for, the repair/replacement of the White

Rock upper walkway. The Public Services Department is progressing the remedial action required to this structure as a separate item to the Future Crane and Quay Strategy.

Project Monitoring

49. The Public Services Department recognises that major capital projects for which it is responsible need to be properly managed and controlled. Having agreed that the replacement of the cranes and the repair of their supporting structures are essential, the Department has established a Project Board, initially at officer level, which currently acts as a central point of contact with regard to the crane replacement project and provides regular reports and recommendations to the Department. The Project Board has been directed to produce the business case for ratification by the Public Services Department prior to the appointment of external advisors to assist in the preparation of tender documents.

Risk Assessment

50. In planning the Future Crane and Quay Strategy, the Department has been conscious of other recent ports projects which, for various reasons, have not been completed on time and within budget. To protect against this, Halcrow has identified items of risk which will be considered and closely monitored by the Project Board during the course of this project. A full risk analysis of the proposed project will be presented to the States when the Department reports back on its recommended tender.

Budgetary Provision

51. In advance of appointing specialist consultants, the Public Services Department had recognised that major construction works costing multiple millions of pounds would be required. In this respect it provisionally estimated, and set aside, a budget of £4m for the works to Berths 4, 5 and 6 in 2008. The indications are that the cost will be significantly higher and the work will now stretch over a longer period. It will therefore be necessary for the Department to make further budgetary provision in 2009 and possibly 2010.
52. The Department's preferred option for replacing the cranes and carrying out the associated works to the berths has been estimated to cost approximately £10m at 2007 rates. This includes provision for investigations and project management, as well as design and supervision fees (estimated at 7-10% of construction cost).

Funding Mechanism

53. It is the intention that the works be treated as ongoing repairs, maintenance and upgrading of the Harbour and as such they will be funded from the Ports Holding Account.

54. The Ports Holding Account is made up of revenues from the Harbours and Airport, which means that the funding for the Future Crane and Quay Strategy will be able to be recovered from, for example, charges levied for freight services at the Harbours. Such charges will be reviewed and adjusted as necessary in future.
55. The Department acknowledges that there will be other calls on the Ports Holding Account in the future, and is also aware that the whole structure of the Account will be subject to review. In the meantime, the Future Crane and Quay Strategy is of such high priority that it cannot be ignored or put off and must be progressed as a matter of urgency.
56. The Department will continue to give consideration to the options for the funding mechanism for this project and will report back to the States with its recommendation when approval of the preferred tender is sought.

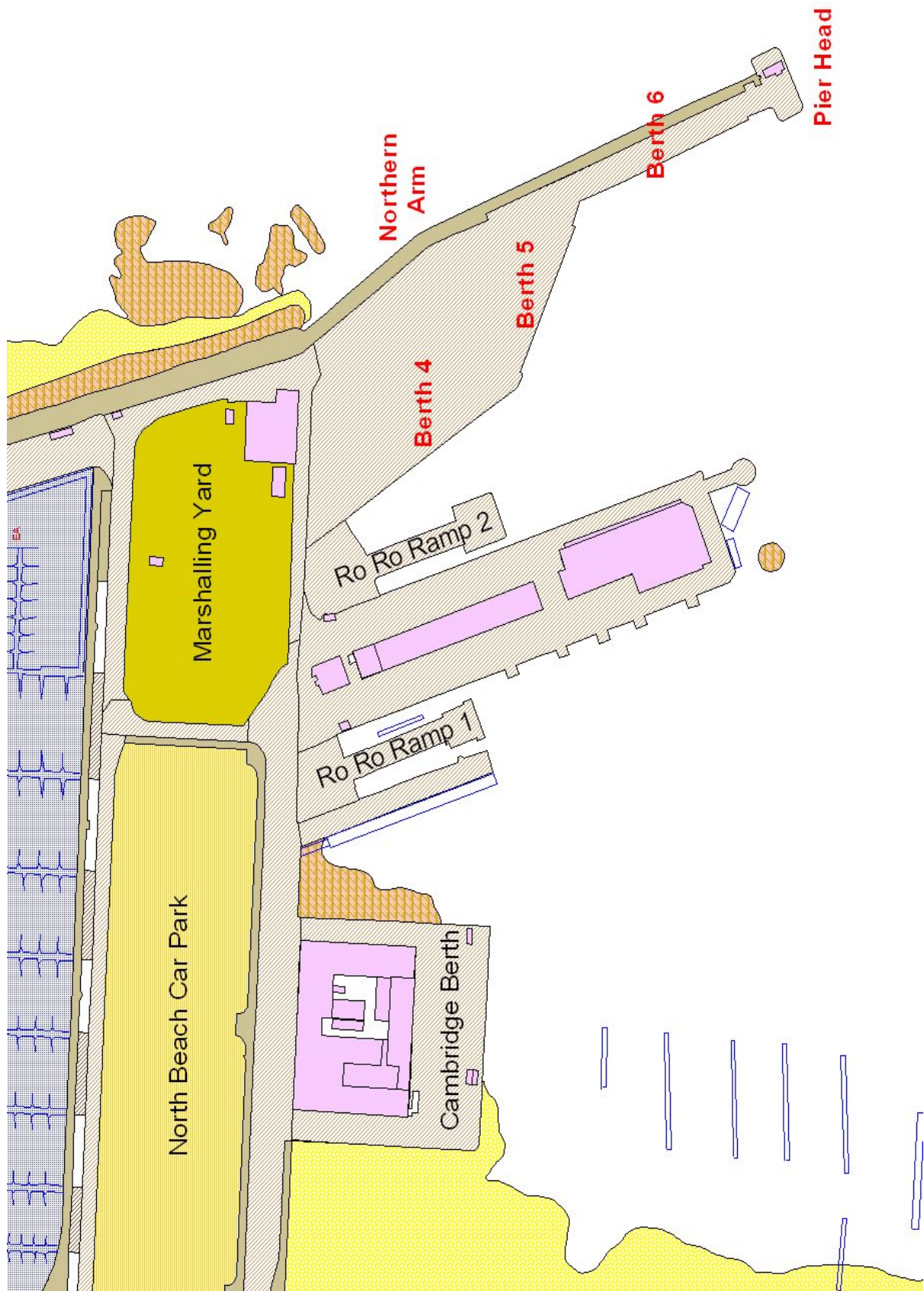
Recommendations

57. The Public Services Department recommends the States:
 - a) To note this report.
 - b) To direct the Public Services Department to progress the Future Crane and Quay Strategy, including the necessary remedial works to the quay infrastructure, which are essential for the long-term viability of the Harbour and of the Bailiwick in general.
 - c) To direct the Public Services Department to report back to the States once tenders for the above works have been received.

Yours faithfully

B M Flouquet
Minister

Appendix 1



(NB The Policy Council supports the proposals.)

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

The States are asked to decide:-

XIX.- Whether, after consideration of the Report dated 19th June, 2008, of the Public Services Department, they are of the opinion:-

1. To note that Report.
2. To direct the Public Services Department to progress the Future Crane and Quay Strategy, including the necessary remedial works to the quay infrastructure, which are essential for the long-term viability of the Harbour and of the Bailiwick in general.
3. To direct the Public Services Department to report back to the States once tenders for the above works have been received.

HOUSE COMMITTEE

PROPOSED CHANGE OF NAME OF COMMITTEE

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

5th June 2008

Dear Sir

EXECUTIVE SUMMARY

This report proposes that the name of the House Committee be changed to the States Assembly and Constitution Committee.

REPORT

1. The House Committee was constituted with effect from 1st May 2004. Its mandate is broadly the same as that of the former States Procedures and Constitution Committee which ceased to exist upon the implementation of the changes to the machinery of government in 2004. That latter Committee was itself the result of a merger of the States Procedures Committee and the Constitution of the States Review Committee.
2. The name “House Committee” is first used in the report of the panel commissioned to review the machinery of government of Guernsey, commonly known as the Harwood Panel, and it is subsequently used in several States reports. However, none of the reports contains any justification for the use of that name.
3. There appears to have been a mistaken assumption that “House” in this context was synonymous with words such as “parliament” and “legislature” or perhaps specifically with “the States of Deliberation”. This has led, in the opinion of the House Committee, to an unfortunate but understandable tendency for Members of the States to refer to “the House” when referring to the States of Deliberation in parliamentary session. We understand that you also share that view.
4. The term “House” is correctly applied in bi-cameral parliaments when each division of the parliament may properly be referred to as a house. The most obvious example of this is the United Kingdom Parliament which has two houses – the House of Lords and the House of Commons. The use of the word

in the Guernsey context has occurred only relatively recently, and in particular since the creation of the House Committee.

5. There is a further confusion which exists in the public arena. The Committee is advised that House Committee staff regularly receive enquiries relating to Housing Department matters.
6. So, if “house” is not considered appropriate, what term can be properly used when referring to the States of Deliberation? Hocart, in his book *“An Island Assembly”*,¹ notes that the first known record of a meeting described as “Les États” occurs in 1568 and he goes on to add that from its inception the body was known as “L’Assemblée des États”. This translates as “States Assembly”.
7. The Committee is therefore of the opinion that Members of the States should be encouraged to refer to “the Assembly” which would maintain a tradition established for over four centuries. This change in emphasis from “House” to “Assembly” would also be consonant with priority 1 of the Government Business Plan (asserting Guernsey’s independent identity).
8. If, as the Committee believes, the States are to be discouraged from referring to “the House” and encouraged to use “the Assembly” then it is consequently illogical to retain a committee with the former words in its title. That being so, the Committee is of the opinion that an appropriate name for the Committee would be “States Assembly and Constitution Committee” which accurately reflects the core function of the Committee as set out in its mandate.
9. To bring the change of name into effect it will be necessary to enact legislation pursuant to the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991 as the House Committee has certain statutory functions assigned to it by the Reform (Guernsey) Law, 1948, as amended. Apart from the cost of enacting this brief Ordinance the change of name will be of negligible cost as existing stocks of the Committee’s stationery are almost exhausted.

Consultation

10. You, sir, and the Law Officers have been consulted and none of the consultees raise any objection to the recommendations.

Recommendations

11. The House Committee recommends the States to decide that—
 - (a) the committee presently styled “House Committee” be renamed “States Assembly and Constitution Committee”;

¹ Richard Hocart – “An Island Assembly” – the development of the States of Guernsey 1700-1949 [published 1988 by the Guernsey Museum and Art Gallery – © States of Guernsey]

- (b) such legislation as may be necessary to give effect to the above decision be prepared.

Yours faithfully

Ivan Rihoy
Chairman

The States are asked to decide:-

XX.- Whether, after consideration of the Report dated 5th June, 2008, of the House Committee, they are of the opinion:-

1. That the committee presently styled “House Committee” be renamed “States Assembly and Constitution Committee”.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOUSE COMMITTEE

POLICY COUNCIL SUB-GROUPS

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

19th June 2008

Dear Sir

EXECUTIVE SUMMARY

This report proposes that the mandates of corporate and cross-departmental policy groups formed by the Policy Council shall be determined by the States of Deliberation and that such groups shall, in addition to Ministers, include not less than three ordinary Members of the departments concerned.

REPORT

1. On the 13th March 2008 the States considered a report from the House Committee¹ concerning Sub-Committees. The States, having considered that report, resolved that the Rules relating to the Constitution and Operation of States Departments and Committees be amended to differentiate between Sub-Committees to which a decision-making function had been delegated and those whose primary function is to carry out research and formulate draft policy. Whilst the present members of the Committee agree with the proposals put forward by their predecessors, they are of the opinion that those proposals did not adequately address the constitution of corporate and cross-departmental groups formed by the Policy Council given the change in emphasis set out in the following paragraph. This present report therefore addresses those issues.
2. Also considered at the March 2008 meeting of the States, was a report from the Policy Council² entitled “Government Business Plan – Preparing for the New States Term 2008-2012”. That report proposed amendments to the Policy Council’s and States Departments’ mandates. The revised mandates were approved by a slender majority³ but one of the principal concerns expressed

¹ Billet d’État III of 2008, p. 451

² Billet d’État III of 2008, p. 313

³ The vote on proposition 4 of article X of Billet d’État III of 2008 was 23 pour, 20 contre.

during that debate related to a proposal to change the section of the Policy Council's mandate dealing with co-ordination of States activities -

from:

- *The co-ordination and allocation of responsibilities and functions to departments and committees;*
- *To develop, present to the States for approval as appropriate, and implement policies on the above matters for the provision of services, introduction of legislation and other measures which contribute to the achievement of strategic and corporate objectives.*

to:

- *The allocation of responsibilities and functions to departments and committees and the co-ordination of action to enable the implementation of the Government Business Plan, including action taken through the establishment of corporate and cross-departmental policy groups.*

3. Concern was expressed in the March States debate that the work of the Policy Council groups was in some instances eroding the mandates and work-streams of certain Departments and that the implementation of the proposed revised mandate would exacerbate that position.
4. The Committee believes that it is important that opportunities for career development are provided. The point has been made forcibly in the past by many Members of the States who were not Ministers, and indeed by some Deputy Ministers who had seldom attended Policy Council meetings, that exposure to work on sub-groups and engaging in deliberations assisted political career development. It is important that non-ministers should sit on groups with Ministers across the range of government in order to gain invaluable experience.
5. The Committee's views on the matter were communicated to the Policy Council by letter dated 21st May 2008, a copy of which is attached as Appendix 1 to this report; the Policy Council's reply dated 17th June 2008 is attached as Appendix 2.
6. Its concerns were therefore heightened when it was advised that on the 2nd June 2008 the Policy Council appointed members of seven Steering Groups – the membership (with one exception) being entirely drawn from Ministers. The exception is the Government Business Plan Team which is to include 'three States Members appointed on a four-monthly cycle'. This is also considered to be unacceptable as ministers will have a permanent seat with the non-ministers remaining as members for only a short period.

7. As stated in the Committee's letter to the Policy Council its concerns are not with matters which fall wholly within the Council's mandate, for example the External Relations Group. The Committee is, however, firmly of the opinion that, where the work of a sub-group cuts across the mandate of one or more departments, the States should be responsible for determining the sub-group's mandate. The Committee fully accepts that the Policy Council should be able to determine which departments need to be members of each particular group. However, in a non-party parliamentary system in which each and every member forms a part of the government, it is considered essential that the ministerial membership is counterbalanced to some degree by non-ministers chosen by the departments concerned.

8. It is therefore proposed that the Rules relating to the Constitution and Operation of States Departments and Committees be amended to the effect that the Policy Council be required to report to the States prior to the formation of any sub-group dealing with corporate or cross-departmental matters, in each case setting out the proposed mandate of the sub-group and naming the departments to be represented thereon. The constitution of the sub-groups will be the Minister of each department concerned and a minimum of three ordinary members – one chosen by each department. Where more than three departments are represented on a Sub-Group the Policy Council may either allow one ordinary member from each of the departments or, if it wishes to restrict the number of ordinary members to three, it may decide which of the departments concerned shall elect an ordinary member. These provisions will not apply to sub-groups dealing with matters such as External Relations which fall wholly within the mandate of the Policy Council nor will they apply to the Government Business Plan Group.

Consultation

9. The Law Officers have been consulted and have not raised any objection to the recommendations. The House Committee has invited the Policy Council to comment on this report notwithstanding the provisions of Rule 2 of the Rules of Procedure of the States of Deliberation.

Recommendation

10. The House Committee recommends the States to direct that an amendment to the Rules relating to the Constitution and Operation of States Departments and Committees be prepared, on the lines set out in paragraph 8.

Yours faithfully

Ivan Rihoy
Chairman

APPENDIX 1

The Chief Minister
 Policy Council
 Sir Charles Frossard House
 St Peter Port
 GY1 1FH

21st May 2008

Dear Deputy Trott

You will recall that in March this year the States approved changes to the Rules relating to the Constitution and Operation of States Departments and States Committees with regard to Sub-Committees. In particular there are now two types of Sub-Committee: those with delegated responsibility and those to which no responsibility has been delegated.

Whilst the House Committee considers that those Rules (16 and 16A) are appropriate for Sub-Committees constituted by the Departments and Committees of the States it does not believe that they are adequate with regard to the majority of the sub-groups formed by the Policy Council. The Committee is not concerned with matters which fall wholly within the mandate of the Policy Council: by way of example it is considered that the External Relations Group can properly be constituted pursuant to Rule 16.

Rather, our concern lies with the Sub-Groups whose core function relates to matters which fall within the mandate of one or more Departments. We acknowledge, of course, that part of the Council's mandate is *"the coordination of action to enable the implementation of the Government Business Plan, including action taken through the establishment of corporate and cross-departmental policy groups"*.

The Committee is not, therefore, suggesting that the Council is acting *ultra vires* in establishing groups such as the Strategic Land Planning Group and the Labour Utilization Group. However, it is firmly of the opinion that as the work of these groups can, in effect, neutralize the work of the lead Department(s) control thereof should rest with the States and not the Policy Council. The Committee considers that such groups should be both constituted and populated by the States and is presently minded to take proposals to the States to that effect.

However, before doing so, the House Committee would be pleased to learn the Policy Council's views thereon and also whether the Council is itself willing to take the initiative in laying this matter before the States.

Yours sincerely

IVAN RIHOY
 Chairman
 House Committee

APPENDIX 2

The Chairman
House Committee
Sir Charles Frossard House
La Charroterie
St. Peter Port
GY1 1FH

17th June 2008

Dear Deputy Rihoy

Policy Council Sub-Groups

I refer to your letter dated 21st May 2008, which was discussed by the Policy Council at its meetings on 2nd and 16th June 2008. I also refer to our meeting on 10 June 2008 to discuss the matter.

As you are aware the Council has now determined the membership of the various Sub-groups with the exception of the Energy Policy Group, which it will consider after the States debate of the Energy Policy Report later this month.

At this stage, the Council decided to appoint only Ministers as members of the Sub-Groups, with the exception of the Government Business Plan Team where it will appoint three States members on a four month rotating basis.

The Policy Council has also agreed that the following Sub-groups, which largely deal in matters of corporate policy, be authorised to co-opt up to two additional States Members as members of the Group:-

Environmental Policy Group, Social Policy Group, Population Policy Group; Strategic Land Planning Group and the Energy Policy Group (when it is formed).

In reaching these decisions the Council recognised the need to keep the Groups small and focussed, while including representation from the necessary departments on each Group.

As each of the above Groups commences its work, it will be for the Group to decide whether or not there would be benefit in expanding its membership by up to two additional States members. In this event the Chairmen will make the necessary recommendations to the Policy Council for approval.

Yours sincerely

L S Trott
Chief Minister

The States are asked to decide:-

XXI.- Whether, after consideration of the Report dated 19th June, 2008, of the House Committee, they are of the opinion:-

To direct that an amendment to the Rules relating to the Constitution and Operation of States Departments and Committees be prepared, on the lines set out in paragraph 8 of that Report.

ORDINANCE LAID BEFORE THE STATES

**THE COMPANIES (GUERNSEY) LAW, 2008
(AMENDMENT) ORDINANCE, 2008**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2008, made by the Legislation Select Committee on the 16th June, 2008, is laid before the States.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE IMMIGRATION (BAILIWICK OF GUERNSEY) RULES 2008

In pursuance of Section 3 (2) of the Immigration Act 1971 as extended to the Bailiwick of Guernsey by the Immigration (Guernsey) Order 1993, the Immigration (Bailiwick of Guernsey) Rules 2008, made by the Home Department on 28th April 2008, are laid before the States.

EXPLANATORY NOTE

These Rules repeal and replace the Rules at present in force in the Bailiwick of Guernsey. They make provision as to the practice to be followed in the administration of the Immigration Acts 1971, 1988 and 1999 as extended to this Bailiwick, for regulating entry into and the stay in the Bailiwick of Commonwealth citizens, British protected persons, nationals of member states of the European Economic Area, nationals of foreign states outside the European Economic Area and stateless persons. Any reference to a time factor or to a duration of stay has been included with the concurrence of the Lieutenant Governor. The new Rules closely follow the United Kingdom "Statement of Changes in Immigration Rules".

THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO. 3) REGULATIONS, 2008

In pursuance of section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 3) Regulations, 2008, made by the Social Security Department on 21st May, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations 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 HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO. 4) REGULATIONS, 2008

In pursuance of section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 4) Regulations, 2008, made by the Social Security Department on 18th June, 2008, are laid before the States.

EXPLANATORY NOTE

These Regulations add to 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.

APPENDIX I

**NOMINATION OF ACTING PRESIDING OFFICERS OF THE
STATES OF DELIBERATION AND THE STATES OF ELECTION**

**NOMINATION OF ACTING PRESIDING OFFICERS OF THE
STATES OF DELIBERATION**

Pursuant to paragraph (2) of Article 1 of the Reform (Guernsey) Law, 1948, as amended, I hereby nominate:

Deputy Ivan Frederick RIHOY
Deputy Carol Ann STEERE
Deputy Peter Raphael SIRETT

to perform the duties of Acting Presiding Officer of the States of Deliberation, whose seniority in order of appointment shall rank immediately after the Deputy Presiding Officer and in the order in which their names appear herein.

G R ROWLAND
Presiding Officer of the States of Deliberation

29 May 2008

**NOMINATION OF ACTING PRESIDING OFFICERS OF THE
STATES OF ELECTION**

Pursuant to paragraph (2) of Article 1 and to paragraph (3) of Article 4 of the Reform (Guernsey) Law, 1948, as amended, I hereby nominate:

Deputy Ivan Frederick RIHOY
Deputy Carol Ann STEERE
Deputy Peter Raphael SIRETT

to perform the duties of Acting Presiding Officer of the States of Election, whose seniority in order of appointment shall rank immediately after the Deputy Presiding Officer and in the order in which their names appear herein.

G R ROWLAND
Presiding Officer of the States of Election

29 May 2008

APPENDIX II

HOUSE COMMITTEE

**RECORD OF MEMBERS' ATTENDANCE AT MEETINGS OF
THE POLICY COUNCIL, DEPARTMENTS AND COMMITTEES
AND IN THE STATES OF DELIBERATION**

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

19th June 2008

Dear Sir

On the 28th January 2004 the States resolved, inter alia:

“That Departments and Committees shall maintain a record of their States Members’ attendance at, and absence from, meetings, including sub-committee meetings and the reasons for absence given shall also be recorded.

That the records of States Members’ attendance at, absence from and reasons for absence from meetings, shall be made available to the House Committee to monitor and to take such action as it sees fit within its powers and the records shall also be available for inspection by the public.”

This report deviates from the States resolution, in that the House Committee has deemed it appropriate to accede to a request that statistics relating to attendance in the States of Deliberation are also included.

The House Committee would be grateful if you would arrange for this report, in respect of statistics provided by HM Greffier, Departments and Committees for the six months ended 30th April 2008, to be published as an appendix to a Billet d’État.

Yours faithfully

Ivan Rihoy
Chairman

PART I - REPORT BY DEPARTMENT/COMMITTEE

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/ holiday	Other
POLICY COUNCIL							
M. W. Torode	12	10			1	1	
S. J. Falla, MBE	12	9		1		2	
W. M. Bell	12	10	1		1		
D. de G. De Lisle	12	11				1	
D. B. Jones	12	10	2				
D. E. Lewis	12	7		5			
G. H. Mahy	12	11	1				
M. A. Ozanne	12	10				2	
P. J. Roffey	12	11				1	
P. R. Sirett	12	11				1	
L. S. Trott	12	10	1			1	
Alternate Members:							
D. P. Le Cheminant	4	4					
C. H. Le Pelley	1	1					
T. M. Le Pelley	1	1					
J. P. Le Tocq	1		1				
C. S. McNulty Bauer	2	2					
W. J. Morgan	2	2					

COMMERCE AND EMPLOYMENT DEPARTMENT

S. J. Falla, MBE	8	6	2				
C. S. McNulty Bauer	8	8					
L. R. Gallienne	8	6			2		
M. G. O'Hara	8	5	1			2	
D. W. Staples	8	6				2	

CULTURE AND LEISURE DEPARTMENT

P. R. Sirett	5	5					
C. H. Le Pelley	5	5					
M. G. O'Hara	5	4				1	
J. Honeybill	5	5					
C. S. McNulty Bauer	5	5					

EDUCATION DEPARTMENT

M. A. Ozanne	10	9				1	
W. J. Morgan	10	9				1	
D. A. Grut	10	9				1	
A. H. Adam	10	10					
D. P. Le Cheminant	7	7					
M. G. O'Hara	3	3					

ENVIRONMENT DEPARTMENT

D. de G. De Lisle	15	14				1	
I. F. Rihoy	15	10	1			4	
C. D. Brock	15	9				6	
J. M. Le Sauvage	15	15					
M. M. Lowe	15	14		1			

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/ holiday	Other

HEALTH AND SOCIAL SERVICES DEPARTMENT							
P. J. Roffey	11	10				1	
D. A. Grut	11	10				1	
A. H. Adam	11	11					
B. L. Brehaut	11	11					
D. E. Lewis	11	7		4			

HOME DEPARTMENT							
G. H. Mahy	16	16					
F. W. Quin	16	16					
S. J. Maindonald	16	8	5	3			
L. R. Gallienne	16	16					
J. M. Tasker	16	15	1				

HOUSING DEPARTMENT							
D. B. Jones	11	9	2				
M. H. Dorey	11	11					
B. M. Flouquet	8	5	2	1			
B. L. Brehaut	1		1				
J. A. B. Gollop	11	11					
R. R. Matthews	11	11					

PUBLIC SERVICES DEPARTMENT							
W. M. Bell	16	16					
A. H. Brouard	16	15				1	
R. J. Le Moignan	16	15				1	
T. M. Le Pelley	16	13				3	
S. J. Ogier	16	15					1 unknown

SOCIAL SECURITY DEPARTMENT							
D. E. Lewis	16	11		5			
D. P. Le Cheminant	16	15			1		
S. J. Ogier	16	15	1				
B. M. Flouquet	16	14			1		1 unknown
M. H. Dorey	16	15			1		

TREASURY AND RESOURCES DEPARTMENT							
L. S. Trott	23	23					
J. P. Le Tocq	23	18			2	3	
M. H. Dorey	23	21			1	1	
J. Honeybill	23	19				4	
G. Guille	23	20			1	2	

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/ holiday	Other
HOUSE COMMITTEE							
B. M. Flouquet	3	3					
C. H. Le Pelley	3	2				1	
E. W. Walters	3	3					
R. R. Matthews	3	3					
J. A. B. Gollop	3	3					

INHERITANCE LAW REVIEW COMMITTEE							
J. A. Pritchard	2	2					
C. H. Le Pelley	2	1	1				
P. R. Sirett	2	2					

LEGISLATION SELECT COMMITTEE							
C. H. Le Pelley	8	8					
P. R. Sirett	8	8					
J. A. B. Gollop	8	8					
T. M. Le Pelley	8	6				2	
A. H. Brouard	8	6				2	

PUBLIC ACCOUNTS COMMITTEE							
L. R. Gallienne	16	16					
C. D. Brock	16	11		1		4	
B. J. Gabriel	16	13		1		2	
S. J. Ogier	16	13	2		1		
J. M. Tasker	16	16					

PUBLIC SECTOR REMUNERATION COMMITTEE							
J. P. Le Tocq	12	10	1	1			
A. H. Adam	12	10			1	1	
J. Honeybill	12	11	1				
B. L. Brehaut	12	10	2				
S. J. Maindonald	12	7		3		1	1 business mtg

SCRUTINY COMMITTEE							
J. A. Pritchard	10	10					
S. J. Maindonald	10	6	2	2			
B. R. de Jersey	10	8		1		1	
J. A. B. Gollop	10	8	2				
D. W. Staples	10	5	2	3			
A. H. Adam	10	7	2			1	
B. L. Brehaut	10	10					
C. N. K. Parkinson	10	8				2	
W. Walden	10	4			5	1	

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE							
D. E. Lewis	2	1		1			
B. R. de Jersey	2	2					
J. A. B. Gollop	2	1				1	
T. M. Le Pelley	2	2					
B. M. Flouquet	2	1				1	

PART II - REPORT BY SUB-COMMITTEES

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/ holiday	Other
POLICY COUNCIL – Demographics Policy Group							
D. E. Lewis	3					2	1 – unknown
C. S. McNulty Bauer	3	3					
M. H. Dorey	3	3					
D. A. Grut	3	2					1 – unknown
W. J. Morgan	3	3					
F. Quin	3	3					

POLICY COUNCIL – Social Policy Group							
P. J. Roffey	4	4					
B. M. Flouquet	2	1					1 – unknown
W. J. Morgan	4	2					2 – unknown
J. P. Le Tocq	4	3		1			
C. S. McNulty Bauer	4	4					
D. P. Le Cheminant	4	3	1				
J. M. Tasker	4	4					

POLICY COUNCIL – Strategic Land Planning Group							
D. B. Jones	2	2					
W. M. Bell	2	2					
P. R. Sirett	2	2					
C. D. Brock	2						2 – unknown
C. S. McNulty Bauer	2	2					
D. de G. De Lisle	2	1					1 – unknown
J. Honeybill	2	1					1 – unknown

POLICY COUNCIL – Fiscal and Economic Policy Steering Group							
M. W. Torode	8	7			1		
L. S. Trott	8	7	1§				
S. J. Falla MBE	8	7		1			
W. M. Bell	8	6	1*	1			
P. J. Roffey	8	6	2§				

§ = other States business for part of meeting * = medical appointment for part of meeting

POLICY COUNCIL – Energy Policy Group							
B. M. Flouquet	5	5					
C. N. K. Parkinson	5	5					
G. Guille	5	5					
M. G. O'Hara	5	4				1	
S. J. Ogier	5	5					
D. de G. De Lisle	5	5					

POLICY COUNCIL – External Relations Group							
M. W. Torode	4	3			1		
P. R. Sirett	4	2			2		
S. J. Falla MBE	4	3	1				
D. B. Jones	4	4					
L. S. Trott	4	3	1				

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/ holiday	Other
POLICY COUNCIL – Legal Aid Steering-Group							
W. M. Bell	1	1					
C. N. K. Parkinson	1	1					
P. R. Sirett	1	1					

POLICY COUNCIL – Staff Steering Group							
S. J. Falla MBE	2	2					
D. E Lewis	2			2			
L. S. Trott	2	2					
M. A. Ozanne	2	2					

POLICY COUNCIL – Government Business Plan Team							
S. J. Falla MBE	7	7					
J. P. Le Tocq	7	3	1			2	1 – unknown
G. H. Mahy	7	5			1		1 – unknown

COMMERCE AND EMPLOYMENT DEPARTMENT and TREASURY AND RESOURCES DEPARTMENT – Construction Sector Group							
C. S. McNulty Bauer	1	1					
M. G. O'Hara	1			1			
J. P. Le Tocq	2	1		1			
J. Honeybill	2	2					

COMMERCE AND EMPLOYMENT DEPARTMENT – Dairy Management Board							
D. W. Staples	3	3					
C. S. McNulty Bauer	3	3					

COMMERCE AND EMPLOYMENT DEPARTMENT – Business Guernsey Group							
C. S. McNulty Bauer	2	2					
M. G. O'Hara	2			2			

COMMERCE AND EMPLOYMENT DEPARTMENT and PUBLIC SERVICES DEPARTMENT – External Transport Group							
S. J. Falla MBE	2	2					
W. M. Bell	2	1				1	
C. S. McNulty Bauer	2	2					
T. M. Le Pelley	2	1				1	

COMMERCE AND EMPLOYMENT DEPARTMENT – Finance Sector Group							
S. J. Falla, MBE	4	4					
C. S. McNulty Bauer	4	4					

COMMERCE AND EMPLOYMENT DEPARTMENT – Client Services Working Group							
D. W. Staples	5	4		1			

COMMERCE AND EMPLOYMENT DEPARTMENT and CULTURE AND LEISURE DEPARTMENT – Marketing Guernsey Group							
S. J. Falla, MBE	2	2					
M. G. O'Hara	2	2					
P. R. Sirett	1	1					

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/holiday	Other
CULTURE AND LEISURE DEPARTMENT – Liberation Celebrations Committee							
M. G. O’Hara	13	13					
CULTURE AND LEISURE DEPARTMENT – KGV Management Committee							
J. Honeybill	8	7			1		
CULTURE AND LEISURE DEPARTMENT – Channel Islands Lottery Advisory Panel							
J. Honeybill	0						
CULTURE AND LEISURE DEPARTMENT – Guernsey Sports Commission							
M. G. O’Hara	4	4					
CULTURE AND LEISURE DEPARTMENT – Guernsey Sports Commission - Achievement Awards Committee							
M. G. O’Hara	4	4					
CULTURE AND LEISURE DEPARTMENT – Events Group							
M. G. O’Hara	0						
CULTURE AND LEISURE DEPARTMENT – Events Group – Chairmen of Specialist Interest Groups Sub-Meeting							
M. G. O’Hara	1	1					
EDUCATION DEPARTMENT – Appointments Panel							
W. J. Morgan	2	2					
A. H. Adam	2	2					
M. A. Ozanne	1	1					
EDUCATION DEPARTMENT – Project Board for St Sampson’s High School and Le Murier							
M. A. Ozanne	2	2					
W. J. Morgan	2	1				1	
D. A. Grut	2	2					
M. H. Dorey	2	2					
J. Honeybill	2	2					
EDUCATION DEPARTMENT – Guille-Allès Library							
A. H. Adam	3	3					
EDUCATION DEPARTMENT – Blanchelande Girls’ College Board							
W. J. Morgan	2	1				1	
D. P. Le Cheminant	1	1					
EDUCATION DEPARTMENT – Ladies’ College Board							
D. A. Grut	3	3					
EDUCATION DEPARTMENT – Elizabeth College Board							
D. A. Grut	4	4					

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/h oliday	Other
EDUCATION DEPARTMENT – e-Learning							
A. H. Adam	6	6					
EDUCATION DEPARTMENT – College of Further Education Development Committee							
M. A. Ozanne	3	1				2	
W. J. Morgan	3	3					
EDUCATION DEPARTMENT – Apprenticeship Sub-Committee							
M. A. Ozanne	1	1					
W. J. Morgan	1	1					
D. W. Staples	1					1	
EDUCATION DEPARTMENT – Higher Education Awards Working Party							
A. H. Adam	2	2					
W. J. Morgan	2	2					
EDUCATION DEPARTMENT – Grammar School Committee							
M. A. Ozanne	1	1					
A. H. Adam	1	1					
EDUCATION DEPARTMENT – Joint Advisory Committee							
M. A. Ozanne	1	1					
W. J. Morgan	1	1					
EDUCATION DEPARTMENT – Lifelong Learning							
M. A. Ozanne	4	3				1	
W. J. Morgan	4	4					
D. P. Le Cheminant	4	4					
C. S. McNulty Bauer	4	2			1	1	
EDUCATION DEPARTMENT – Priaulx Library Council							
A. H. Adam	3	2				1	
C. H. Le Pelley	3	3					
W. M. Bell	3	2			1		
EDUCATION DEPARTMENT – Standing Advisory Council for Religious Education							
M. A. Ozanne	1	1					
W. J. Morgan	1	0			1		
D. P. Le Cheminant	1	1					
EDUCATION DEPARTMENT – Amherst and Vauvert Primary Schools’ Committee							
A. H. Adam	1	0				1	
EDUCATION DEPARTMENT – Forest Primary School Committee							
M. A. Ozanne	2	2					
EDUCATION DEPARTMENT – La Mare de Carteret Primary School Committee							
A. H. Adam	2	2					

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/holiday	Other
EDUCATION DEPARTMENT – La Houquette Primary School Committee							
M. A. Ozanne	1	1					
EDUCATION DEPARTMENT – St Andrew’s Primary School Committee							
M. A. Ozanne	2	1				1	
EDUCATION DEPARTMENT – Castel Primary School Committee							
A. H. Adam	2	2					
EDUCATION DEPARTMENT – St Martins Primary School Committee							
D. P. Le Cheminant	0						
EDUCATION DEPARTMENT – St Mary and St Michael Roman Catholic Primary School Committee							
D. P. Le Cheminant	1	1					
EDUCATION DEPARTMENT – Notre Dame du Rosaire Roman Catholic Primary School Committee							
D. P. Le Cheminant	2	1					1 other
EDUCATION DEPARTMENT – Hautes Capelles Primary School Committee							
D. P. Le Cheminant	2	2					
EDUCATION DEPARTMENT – Vale Infant and Junior and St Sampson’s Infant Schools’ Committee							
W. J. Morgan	2	1				1	
EDUCATION DEPARTMENT – St Sampson’s Secondary School Committee							
W. J. Morgan	2	2					
EDUCATION DEPARTMENT – Les Beaucamps Secondary School Committee							
A. H. Adam	1	1					
EDUCATION DEPARTMENT - St Anne’s School Committee							
W. J. Morgan	1	1					
EDUCATION DEPARTMENT – La Mare de Carteret Secondary School Committee							
A. H. Adam	1	1					
PUBLIC SERVICES DEPARTMENT – Airport Pavement Project Board							
T. M. Le Pelley	3	3					
PUBLIC SERVICES DEPARTMENT – Pilotage Board							
R. J. Le Moignan	1	1					
PUBLIC SERVICES DEPARTMENT – Waste Disposal Authority							
W. M. Bell	8	8					
T. M. Le Pelley	8	7				1	
R. J. Le Moignan	8	7				1	
A. H. Brouard	8	7				1	
S. J. Ogier	8	6	1			1	

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/h oliday	Other

PUBLIC SERVICES DEPARTMENT – Guernsey Recycling Advisory Forum

W. M. Bell	5	5					
S. J. Ogier	5	4					1 unknown

PUBLIC SERVICES DEPARTMENT – Alderney Airport Working Party

W. M. Bell	1	1					
T. M. Le Pelley	1	1					
R. J. Le Moignan	1	1					
A. H. Brouard	1					1	
S. J. Ogier	1	1					

PUBLIC SERVICES DEPARTMENT – Waste Industry Forum

W. M. Bell	2	2					
T. M. Le Pelley	2	2					
R. J. Le Moignan	2	2					
A. H. Brouard	2	2					
S. J. Ogier	2	2					

PUBLIC SERVICES DEPARTMENT – Waste Project Board

W. M. Bell	1	1					
T. M. Le Pelley	1	1					
R. J. Le Moignan	1	1					
A. H. Brouard	1	1					
S. J. Ogier	1	1					

PUBLIC SECTOR REMUNERATION COMMITTEE – Public Service Employees Joint Council

J. P. Le Tocq	5	3	1	1			
A. H. Adam	5	5					
J. Honeybill	5	5					
B. L. Brehaut	5	5					
S. J. Maindonald	5	2		2		1	

PART III - REPORT BY MEMBER/ELECTORAL DISTRICT**Summary of Attendances at Meetings of The Policy Council, Departments and Committees**

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/ holiday	Other
ST PETER PORT SOUTH							
L. C. Morgan	0						
B. J. Gabriel	34	28	3	1		2	
J. A. B. Gollop	34	31	2			1	
C. S. McNulty Bauer	42	38			1	3	
B. L. Brehaut	21	21					
J. M. Tasker	36	35	1				
ST PETER PORT NORTH							
L. R. Gallienne	63	57			2	4	
J. Honeybill	36	33	1		1		1 unknown
R. R. Matthews	14	14					
J. A. Pritchard	12	12					
C. D. Brock	33	20		1		10	2 unknown
W. J. Morgan	42	35			1	4	2 unknown
D. E. Lewis	46	26		17		2	1 unknown
ST. SAMPSON							
L. S. Trott	49	45	3			1	
D. P. Le Cheminant	38	35	1		1		1 other
S. J. Maindonald	43	23	7	10		2	1 business
S. J. Ogier	70	62	4		1	1	2 unknown
I. F. Rihoy	15	10	1			4	
R. J. Le Moignan	29	27				2	
VALE							
G. H. Mahy	35	32	1		1		1 unknown
P. J. Roffey	35	31	2			2	
D. B. Jones	29	25	4				
M. M. Lowe	15	14	1				
G. Guille	28	25			1	2	
B. R. de Jersey	12	10		1		1	
D. W. Staples	27	18	2	4		3	
CASTEL							
S. J. Falla, MBE	51	44	3	2		2	
M. H. Dorey	55	52			2	1	
E. W. Walters	3	3					
J. P. Le Tocq	70	51	4	4	2	8	1 unknown
B. M. Flouquet	36	29	2	1	1	1	2 unknown
A. H. Adam	72	65	2		1	4	
T. M. Le Pelley	30	25			2	3	

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal business/ holiday	Other
WEST							
D. A. Grut	33	30				2	1 unknown
M. A. Ozanne	43	36				7	
D. de G. De Lisle	34	31				2	1 unknown
C. H. Le Pelley	22	20	1			1	
P. R. Sirett	35	32			2	1	
A. H. Brouard	36	31				5	
SOUTH-EAST							
M. W. Torode	24	20			3	1	
C. N. K. Parkinson	16	14				2	
W. M. Bell	63	58	2	1	2		
F. W. Quin	19	19					
J. M. Le Sauvage	15	15					
M. G. O'Hara	48	40	1	3		4	
ALDERNEY REPRESENTATIVES							
R. G. Willmott	0						
W. Walden	10	4			5	1	

PART IV – REPORT OF ATTENDANCE IN THE STATES OF DELIBERATION

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)
ST PETER PORT SOUTH		
L. C. Morgan	11	11
B. J. Gabriel	11	9
J. A. B. Gollop	11	11
C. S. McNulty Bauer	11	11
B. L. Brehaut	11	11
J. M. Tasker	11	10
ST PETER PORT NORTH		
L. R. Gallienne	11	11
J. Honeybill	11	11
R. R. Matthews	11	11
J. A. Pritchard	11	11
C. D. Brock	11	11
W. J. Morgan	11	10
D. E. Lewis	11	5
ST SAMPSON		
L. S. Trott	11	11
D. P. Le Cheminant	11	11
S. J. Maindonald	11	11
S. J. Ogier	11	11
I. F. Rihoy	11	9
R. J. Le Moignan	11	11
VALE		
G. H. Mahy	11	11
P. J. Roffey	11	11
D. B. Jones	11	11
M. M. Lowe	11	11
G. Guille	11	9
B. R. de Jersey	11	8
D. W. Staples	11	11
CASTEL		
S. J. Falla, MBE	11	11
M. H. Dorey	11	10
E. W. Walters	11	0
J. P. Le Tocq	11	10
B. M. Flouquet	11	11
A. H. Adam	11	11
T. M. Le Pelley	11	11

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)
WEST		
D. A. Grut	11	11
M. A. Ozanne	11	10
D. de G. De Lisle	11	11
C. H. Le Pelley	11	9
P. R. Sirett	11	11
A. H. Brouard	11	11
SOUTH-EAST		
M. W. Torode	11	11
C. N. K. Parkinson	11	11
W. M. Bell	11	11
F. W. Quin	11	11
J. M. Le Sauvage	11	11
M. G. O'Hara	11	9
ALDERNEY REPRESENTATIVES		
R. G. Willmott	11	10
W. Walden	11	10

Note:

The only inference which can be drawn from the statistics in this part of the report is that a Member was present for the roll call or was subsequently relévé(e).

Some Members recorded as absent will have been absent for acceptable reasons, e.g. illness or representing the States in some other forum such as the Commonwealth Parliamentary Association.

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 30th DAY OF JULY 2008

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

PROJET DE LOI

entitled

THE AVIATION (BAILIWICK OF GUERNSEY) LAW, 2008

I.- To approve the Projet de Loi entitled “The Aviation (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.

POLICY COUNCIL

and

COMMERCE AND EMPLOYMENT DEPARTMENT

GUERNSEY FINANCIAL SERVICES COMMISSION – CLARIFICATION OF FUNCTIONS

II.- After consideration of the Report dated 2nd June, 2008, of the Policy Council and the Commerce and Employment Department:-

1. To approve the proposals set out in that Report.
2. To approve the draft Projet de Loi entitled “The Financial Services Commission (Bailiwick of Guernsey) (Amendment) (No. 2.) 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 ROAD TRAFFIC (COMPULSORY THIRD-PARTY INSURANCE) (AMENDMENT) (GUERNSEY) LAW, 2008

III.- To approve the Projet de Loi entitled “The Road Traffic (Compulsory Third-Party Insurance) (Amendment) (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 GUERNSEY BAR (BAILIWICK OF GUERNSEY) (AMENDMENT) LAW, 2008

IV.- To approve the Projet de Loi entitled “The Guernsey Bar (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.

THE GAMBLING (GAMING AND LOTTERIES) (AMENDMENT) ORDINANCE, 2008

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

THE HOUSING (CONTROL OF OCCUPATION) (AMENDMENT OF HOUSING REGISTER) ORDINANCE, 2008

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

PROJET DE LOI

entitled

THE BANKING SUPERVISION (BAILIWICK OF GUERNSEY) (AMENDMENT) (NO. 2) LAW, 2008

VII.- To approve, subject to the following amendments, the Projet de Loi entitled “The Banking Supervision (Bailiwick of Guernsey) (Amendment) (No. 2) 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. in clause 2 (printed at pages 18 and 19 of the Brochure) immediately after "subsection (12)", insert "or section 47(1)(b) (but only in relation to a requirement imposed by or under this section)",
2. in clause 3 (printed at pages 19 and 20 of the Brochure) immediately after "subsection (5)", insert "or section 47(1)(b) (but only in relation to a requirement imposed by or under this section)",

3. in clause 4 (printed at pages 20 and 21 of the Brochure) immediately after "subsection (8)", insert "or section 47(1)(b) (but only in relation to a requirement imposed by or under this section)",
4. in clause 5 (printed at pages 21 and 22 of the Brochure) immediately after "subsection (3)", insert "or section 47(1)(b) (but only in relation to a requirement imposed by or under this section)", and
5. in clause 6 (printed at pages 22 and 23 of the Brochure) immediately after "subsection (5)", insert "or section 47(1)(b) (but only in relation to a requirement imposed by or under this section)".

PROJET DE LOI

entitled

THE HOUSING (CONTROL OF OCCUPATION) (GUERNSEY) (AMENDMENT) LAW, 2008

VIII.- To approve the Projet de Loi entitled “The Housing (Control of Occupation) (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.

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

NEW MEMBER

IX.- To elect Deputy S L Langlois as a member of that Committee to replace Deputy T M Le Pelley, who has been elected Chairman of that Committee.

CULTURE AND LEISURE DEPARTMENT

ELECTION OF NON-VOTING MEMBERS

X.- To elect as non-voting members of the Culture and Leisure Department,

Mrs Hannah Mercedes Beacom
Mr Jeffrey Vidamour

who have been nominated in that behalf by that Department, to serve until May 2012 in accordance with Rule 4 (2) of the Constitution and Operation of States Departments and Committees.

HEALTH AND SOCIAL SERVICES DEPARTMENT

ELECTION OF NON-VOTING MEMBER

XI.- To elect as a non-voting member of the Health and Social Services Department, Mr Bruce Anthony Mansell, who has been nominated in that behalf by that Department, to serve until May 2012 in accordance with Rule 4 (2) of the Constitution and Operation of States Departments and Committees.

ELIZABETH COLLEGE BOARD OF DIRECTORS

NEW MEMBER

XII.- To elect Mr Nicolas Louis Guillemette as a member of the Elizabeth College Board of Directors to complete the unexpired portion of the term of office of the late Mr J Burton, namely to 5th January, 2012.

POLICY COUNCIL

OVERSEAS AID COMMISSION – ELECTION OF MEMBERS

XIII.- After consideration of the Report dated 16th June, 2008, of the Policy Council:-

To elect –

Mrs José Day
Mr Mike Dene, MBE
Mr Glyn Allen
Mr Ian MacRae
Mr Steve Mauger
Mr Tim Peet

to serve as ordinary members of the Overseas Aid Commission from July 2008 to July 2012.

ORDINANCE LAID BEFORE THE STATES

THE COMPANIES (GUERNSEY) LAW, 2008 (AMENDMENT) ORDINANCE, 2008

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2008, made by the Legislation Select Committee on the 16th June, 2008, was laid before the States.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE IMMIGRATION (BAILIWICK OF GUERNSEY) RULES 2008

In pursuance of Section 3 (2) of the Immigration Act 1971 as extended to the Bailiwick of Guernsey by the Immigration (Guernsey) Order 1993, the Immigration (Bailiwick of Guernsey) Rules 2008, made by the Home Department on 28th April 2008, were laid before the States.

THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO. 3) REGULATIONS, 2008

In pursuance of section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 3) Regulations, 2008, made by the Social Security Department on 21st May, 2008, were laid before the States.

THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT NO. 4) REGULATIONS, 2008

In pursuance of section 35 of The Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No. 4) Regulations, 2008, made by the Social Security Department on 18th June, 2008, were laid before the States.

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 31st DAY OF JULY 2008

(Meeting adjourned from 30th July 2008)

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

PUBLIC SERVICES DEPARTMENT

RESIDUAL WASTE TREATMENT

XIV.- After consideration of the Report dated 30th May, 2008, of the Public Services Department:-

1. To endorse the proposed shortlist of potential bidders.
2. To note the proposed form of DB25O Contract, Invitation to Tender and Tender Evaluation Model.
3. To endorse the principle for the funding of the project from a loan to be repaid, with interest, from the receipt of gate fees and any income received from energy sales over the period of the DB25O Contract.
4. To direct the Public Services Department to report back to the States of Deliberation giving full details of its recommended bidder in order that the States may endorse the Department's recommendation before the tender is formally accepted.

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 1st DAY OF AUGUST 2008

(Meeting adjourned from 31st July 2008)

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

POLICY COUNCIL

DEVELOPING THE GOVERNMENT BUSINESS PLAN DURING THE 2008-2012 STATES TERM

XV.- After consideration of the report dated 26th June, 2008, of the Policy Council:-

To note the contents of that Report including the intention to update the States again through a further report in February 2009.

TREASURY AND RESOURCES DEPARTMENT

PROPOSED TAXATION OF BENEFITS IN KIND THROUGH THE EMPLOYEES TAX INSTALMENT ("ETI") SCHEME – INFORMATION EXCHANGE BETWEEN THE INCOME TAX OFFICE AND SOCIAL SECURITY DEPARTMENT

XVI.- After consideration of the report dated 28th May, 2008, of the Treasury and Resources Department:-

1. To approve the proposals concerning income tax, as set out in that Report, and to agree that legislation shall be enacted accordingly.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.
3. Considering it expedient in the public interest so to do, to declare, pursuant to section 1 of the Taxes and Duties (Provisional Effect) (Guernsey) Law 1992, that a Projet de Loi enacted to implement the proposals contained in part 2 of that Report shall have effect from 1 January 2009, as if it were a law sanctioned by Her Majesty in Council and registered on the records of the island of Guernsey.

TREASURY AND RESOURCES DEPARTMENT

INTERIM FINANCIAL REPORT

XVII.- After consideration of the Report dated 2nd June, 2008, of the Treasury and Resources Department:-

To note that Report.

HOME DEPARTMENT

AMENDMENT TO THE CRIMINAL JUSTICE (MISCELLANEOUS PROVISIONS) (BAILIWICK OF GUERNSEY) LAW, 2006

XVIII.- After consideration of the Report dated 16th June, 2008, of the Home Department:-

1. To approve the Department's proposals for amending the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 as set out in that Report, subject to the modification that it should not be made an offence to sell, offer for sale or attempt to sell a knife or knife blade to a person aged at least 16 but under 18 years, if the knife or blade is designed for domestic use.
2. To approve the Department's proposals for amending the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2004 as set out in that Report.
3. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

PUBLIC SERVICES DEPARTMENT

GUERNSEY HARBOURS – FUTURE CRANE AND QUAY STRATEGY

XIX.- After consideration of the Report dated 19th June, 2008, of the Public Services Department:-

1. To note that Report.
2. To direct the Public Services Department to progress the Future Crane and Quay Strategy, including the necessary remedial works to the quay infrastructure, which are essential for the long-term viability of the Harbour and of the Bailiwick in general.
3. To direct the Public Services Department to report back to the States once tenders for the above works have been received.

HOUSE COMMITTEE

PROPOSED CHANGE OF NAME OF COMMITTEE

XX.- After consideration of the Report dated 5th June, 2008, of the House Committee:-

1. That the committee presently styled “House Committee” be renamed “States Assembly and Constitution Committee”.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOUSE COMMITTEE

POLICY COUNCIL SUB-GROUPS

XXI.- After consideration of the Report dated 19th June, 2008, of the House Committee:-

TO NEGATIVE THE PROPOSITION to direct that an amendment to the Rules relating to the Constitution and Operation of States Departments and Committees be prepared, on the lines set out in paragraph 8 of that Report.

K H TOUGH
HER MAJESTY'S GREFFIER